TECHE
UDINE

MANOSCRITTI

FONDO PRINCIPALE

Manoscritto n. P_MSS_1062

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Consiliorum legalium
Iurisconsultorum Foroju[illegible]
et aliorum.

1062

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...havit
...d fol. 66.

...l. 71.

...l 77.

..., al
...9.

...stam.
...; gr.

...g per

...81.

...et altera =
...z 28.
...mper
...rmus
...rum

...stitutione

An soror semel exclusa ab hereditate fratris per alios fratres masculos virtute statuti remaneat exclusa etiam quod isti decedant sine masculis fol. 4., et seqq. usq. fol. 12.

In materia feudali à fol. 13. usq. 21. et à fol. 23., usq. 34.

In materia Retractus An filius emancipatus possit retrahere rem venditam à Patre fol. 35.

An appellans tanquam à termino nimis brevi, quando est peremptorius, et quid si non est peremptorius fol. 36.

In materia criminali, et coniecturali à fol. 37. usq. 44.

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In Causa furti, et An qui commisit furtum in una Civitate possit in alia puniri à fol. 62 usq. 65.

In Causa homicidij, et assertio quod non fuerit homicidium pensatum, nec ex insidijs à fol. 66. usq. 70.

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In Causa Iniuriarum à fol. 74. usq. 75.

In Causa Iniuriarum, et diffamationis fol. 76. et 77.

In materia Testamenti, Legatorum, et Codicilli, ac possessionis adeptæ ex testamento fol. 78., et 79.

In materia Testamenti, Legati, Fideicommissi, et testamenti rupti, et nulli fol. 80., et 81., et à fol. 89. usq. 92.

In materia Testamenti et detractionis legitimæ per matrem in bonis filij sui fol. 82.

In materia Testamenti fol. 83.

In materia Testamenti, et fideicommissi fol. 85., et 86.

In materia Testamenti et An si Testator prohibet alienationem filijs antequam veniant ad ætatem Annorum 28., possint saltem testari, et An Mater propter inobedientiam unius filij possit capere domum et relinquere cui velit in preiudicium aliorum fratrum obedientium à fol. 93. usq. 96.

In materia successionis ex testamento, et substitutionis in fideicommisso à fol. 97. usq. 100.

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[illegible]

[illegible]

oēs ascēdentes [illegible] colaterales [illegible] in successione [illegible]
[illegible] excludant [illegible] ascendentes [illegible] collaterales [illegible]
[illegible] dicta [illegible] illa, ex quo apparet quod con[illegible]
[illegible] excludant [illegible]
[illegible] exceptis [illegible] excluditur [illegible]
[illegible] in hoc [illegible] casu [illegible]
[illegible] salva prerogativa gradus. [illegible] intelligimus [illegible]
persona descendens ex aliis filiabus [illegible] quod plures filie fuerint [illegible]
masculus [illegible] descendentibus masculis [illegible] aliqua filia [illegible] persona [illegible]
[illegible] salva prerogativa gradus [illegible]
[illegible] contineatur [illegible] in successione descendentium [illegible] ascendentium [illegible]
prerogativa [illegible] lex [illegible] C. de [illegible] legi. [illegible] in [illegible]
[illegible] excludit [illegible]
[illegible] persona excludentis [illegible] excludit [illegible]
[illegible] filiabus [illegible] necessario [illegible]
[illegible] quod [illegible] prerogativa [illegible]
admittatur filia [illegible] descendentes [illegible] esse [illegible] hoc est [illegible]
[illegible] persona [illegible] ex filiabus exclusa [illegible] Sed [illegible]
proximiore in gradu; [illegible] ergo intelligimus [illegible] speculationis [illegible]
quod [illegible] intelligunt hoc [illegible] casu [illegible]
gradus non possunt dici descendentes ex filiabus exclusis [illegible]
possunt dici exclusi [illegible] non [illegible]
[illegible] volunt tollere dubium. [illegible] omnibus concludo [illegible]
[illegible] civitatis [illegible] Francisci Foscari [illegible] dignissimi [illegible]
[illegible] esse in iudicando [illegible] iudicavit [illegible]
[illegible] diversas partes in favorem d. Catherine [illegible] et consilio
[illegible] male appellatum [illegible] parte d. [illegible]
[illegible] dimidia solutionum. [illegible]

Et ita [illegible] dico [illegible] Ricardus [illegible]
[illegible] doctores [illegible]
manu scripsi et sigillo meo sigillavi. [illegible]

[illegible] consultum dicit [illegible] exclusi ab
hereditate fratrum [illegible] habentes [illegible]
[illegible] exclusi [illegible]
[illegible]
[illegible]
[illegible]
[illegible] ¶ [illegible]
sentio contrarium et ita consul. [illegible]
[illegible] sub [illegible] de success. [illegible]
[illegible] volentes [illegible]
[illegible] sit perpetua et simplex [illegible]
[illegible] et revocabilis ipsis [illegible]
sive proles masculina [illegible] descendente [illegible]
conclusio dictum [illegible] Statutum simpliciter [illegible]
[illegible] masculo femina non succedat talis [illegible] sit
perpetua [illegible] est temporalis
vel conditionata pro ut est in constitutione [illegible] exclusio
non erit perpetua. Ita Bar. in d. l. si ad certum. Bal. in d. l.
in quibus, et in l. si quis filium. c. de inoffi. testa. et [illegible] 6.
[illegible]
[illegible]
¶ [illegible]
[illegible] et collateralis
[illegible]
[illegible]
[illegible] ¶ [illegible]
¶ [illegible]
[illegible]
[illegible]
¶ [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
¶ [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible] masculis excludentibus, et [illegible]
[illegible] constitutionis [illegible]
[illegible]
[illegible] re plene intuendo illud verbum, et si [illegible]
[illegible] exclusionem [illegible] de muliere [illegible]
[illegible]
mulierem que contineat tam [illegible]
[illegible]
[illegible] vivos, et nomen mulieris [illegible]
[illegible]
[illegible] tunc illae [illegible] exclusio [illegible]
[illegible] exclusam ¶ [illegible]
[illegible]
exclusam [illegible]
[illegible] qua prius
[illegible] excludenti, et [illegible]
[illegible] loquatur [illegible]
velit se corrigere [illegible]
[illegible]
[illegible] et domina ¶ [illegible]
[illegible]
[illegible]
[illegible]
[illegible] cum glo. [illegible]
[illegible] clausula declarat [illegible]
[illegible] ¶ Nec illud verbum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] ¶ [illegible]
[illegible]

[illegible] quasi [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] fuisset [illegible] de [illegible]
[illegible]
[illegible]
[illegible] de [illegible]
de [illegible] et [illegible] de [illegible]
et [illegible] A de multi [illegible]
[illegible]
[illegible]
[illegible] quae [illegible]
[illegible]
[illegible]
[illegible]
positionem per collaterales [illegible]
[illegible] descendentibus [illegible] sicut [illegible]
[illegible] quae est [illegible]
[illegible]
[illegible] illius [illegible]
[illegible] non est bona sed [illegible]
[illegible]
[illegible]
[illegible]
[illegible] et [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible] testamentis [illegible] libellum [illegible] libellum [illegible]

[illegible] sit [illegible] parte [illegible] exclusi [illegible]

[illegible] de summa [illegible] et [illegible] post [illegible]

[illegible] de [illegible] ¶ [illegible] [illegible] semel [illegible] exclusa [illegible] [illegible] excelsa [illegible] [illegible] esse [illegible] filiorum [illegible] et [illegible] et [illegible] mus [illegible] ¶ [illegible] articulum circa [illegible] quia [illegible] mutatum [illegible] de [illegible] libelli [illegible]

[illegible]

[illegible] interpretab. in'sti [illegible]
principem [illegible] et non [illegible]
[illegible] debet [illegible]
[illegible]
[illegible] et [illegible]
[illegible]
[illegible] statore [illegible], igitur [illegible]
[illegible]
[illegible] seu declaratiue, et proponitur [illegible] contra [illegible]
haberi posset redium à parte [illegible]
cum diligentia ac consult. et [illegible]
[illegible]
de [illegible]
tutor à iure perito [illegible]
ut supremum dominum fuit. ideo [illegible]
[illegible]
[illegible]

Quod [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]. et [illegible]

[illegible]

[illegible] foemine exclusae [illegible]

[illegible] ista constitutio [illegible] concludit Joannes

[illegible] not. per Bal. et alii scribentes in [illegible]

[illegible]

[illegible] in auth. sed et si amis cot. s. [illegible]

[illegible] in [illegible] cot. 2. [illegible]

[illegible] cons. 8. [illegible]

[illegible] Alb. Brunus in suo tract.

[illegible] exclud. in [illegible] princip.

[illegible] constit. excludit temporaliter [illegible] in sui [illegible]

[illegible]

asperitate non extante [illegible]

[illegible]

operari possit, ut concludit A[illegible] et alii scribentes [illegible] in 6.

mand. est constit. cot. 9. [illegible] et tradit Bar. in [illegible]

[illegible] quarto l. de instit. et [illegible]

ut mulieres exclusae non habeant regressum ad successionem [illegible]

quod masculus excludens, et [illegible] momentum haeres extiterit, ut not. [illegible]

[illegible] ff. de lib. et posthu. et declarat Alb. Brunus [illegible]

[illegible] sequeretur abundantia [illegible]

[illegible] diceretur eas excludere temporaliter, et non [illegible]

[illegible] semper soleat exprimi, ut not. [illegible]

[illegible] statur, ut dicit Paul. de cas. in cons. [illegible]

[illegible] non possit [illegible] not. [illegible]

[illegible] Et si dicatur, quod constit. [illegible]

[illegible] et si contingeret, respondeo quod dicta [illegible]

[illegible] perpetuam exclusionem, quam supra fecerat in [illegible]

[illegible] restringit in d. [illegible] et si contingeret, quod [illegible] procedat, sed [illegible]

[illegible] quo in dicto [illegible] et si contingeret, et [illegible]

declarat [illegible] cum ipsa constit. supra in d. [illegible]

[illegible] exclusisset mulieres [illegible]

[illegible] restaurationem in [illegible] voluimus aut statuen. [illegible] ipse

[illegible] hereditatis, et consuetudinem dotentur, et [illegible]

dentem usque quo maritabuntur, alimententur: sed [illegible]

[illegible]

[illegible] foeminis [illegible]

[illegible]

[illegible]

secundum auth. in successione C. de suis, et legit. l. [illegible] C. [illegible]

[illegible] cur non [illegible]

[illegible] C. de [illegible] et est [illegible]

[illegible]

[illegible] masculos [illegible] libertas [illegible] masculos [illegible]

[illegible] sit et eo iure cum [illegible] cessio in [illegible] Et eo ipso [illegible] soluta quidem, et [illegible] magis, et communi [illegible] in [illegible] descendentes, uel collaterales [illegible] minus [illegible] contraria [illegible]

qui ibidem [illegible] continuat [illegible] dens, ut collateralis [illegible]

[illegible]

[illegible] promissio [illegible]

[illegible]

[illegible]

... in casibus ... d. q. ... et ... in sup.^tis casibus immediate ...
... cum filiabus, et ear. descendentibus in diu[?] ascendentibus, et coll. ...
... masculos ... aut ... alij mul. ...

[illegible]

... fauere feminis ... et earum descendentium, et non sorori ...
... igitur ... ^o ... legis ...
... immediate ... frequenter ...
... continuatione ... de ... et ... ratione ...
... aut alijs mulieribus ex ...
... patam ... notam ...
... Praeterea ... collig...
... magis fauet descendentibus ... ascendentibus ... coll. ...
... excludatur per ascendentes, vel collaterales masculos ...
... habeant ... minus ...
... excluditur per ... masculos non ...
... dispositione d. ... et qd in sup.^tis casibus iuncto ... volumus ...
... per masculos ascendentes vel col. ...
... sunt sine masculis, tunc ipsas filias reuocat ad success.^m a qua ...
... non ... excluditur per ...
... in d. ... et si contingeret, ponderari diction...
... ad ...
... magis fauet descendentibus, quam collateralibus ...
... sorores

Secundo ... non reintegra...
... tunc haereditas ...

[illegible]

... quem ... cum ...
... praed. ...
... demum sequ...
... praed. ...

... non ... mat. ...

... in libris ... mat. ...

... sororem

... statuti ...

[illegible]

Sed cum id [illegible]

audient [illegible]

Subijcis [illegible]

Interim [illegible]

[illegible]

cuius ea, q. sorores non [illegible]

[illegible] ponatur [illegible]

[illegible]

solum a sua natione, et [illegible]

a succ[illegible]

[illegible] Cato suis [illegible]

[illegible]

[illegible] communicata cum [illegible]

[illegible]

Positio [illegible] [illegible] onstitutu. scri not. Bar. [illegible]

[illegible] um mulierë excluserint, et eis excludētes mulierem [illegible] d. filias exclusas in dispone posito debet ampliari [illegible] endat et [illegible]

Verba generalia [illegible] Sed illa vba mulierë omnia restrin[illegible] filias. et ex eis [illegible]

[illegible]

[illegible] lud vbum mulierë, qd est quale stat enūtiatiue, et [illegible]

[illegible] subiiciens restringit vbum mulierë pcedens [illegible] ab dictione [illegible] annumerati ascendētes vīj. et collaterales [illegible] et si dixerat des masculos, sicut nō [illegible] dixerat des mulieres, et nō erat opus [illegible]

[illegible] mulieres [illegible] filias, et eis descendētes [illegible] excluserat [illegible] non dixit [illegible] icientis in l. uni. C. de cad. toll. cum concorda[illegible]

[illegible] disedente [illegible] ess. exclusa sit pp. exclusa, qua in d. [illegible] locis suhius [illegible] nō debeat trahi ad sorores [illegible] media [illegible] non trahit [illegible]

[illegible]

[illegible]

... recipiat [illegible]

[illegible]

... ubi [illegible] de una persona non [illegible]

ad alium [illegible] in casu [illegible] extensio cum [illegible]

[illegible] contin[illegible] [illegible]

sed ex[illegible] de [illegible] ad adult. [illegible]

[illegible] de ret. [illegible]

[illegible] extensio [illegible] evidens [illegible]

[illegible] in alijs [illegible]

[illegible] ad [illegible]

[illegible] non [illegible]

[illegible] quib. casibus [illegible]

exclusione equiparat filia, et soror [illegible]

[illegible] Roma. in cons. 32. [illegible]

[illegible]

[illegible]
[illegible] semel fuit [illegible]
[illegible] unius [illegible] ut s. deductum est [illegible]
[illegible] eadem correctio per repeti[illegible]
[illegible] ut not. Glo. et doc. in capitulo c. cupientes [illegible]
[illegible]
[illegible] in uno [illegible] ad aliud [illegible]
[illegible] in exorbitantem [illegible] Glo. in d. l. si quis quo [illegible]
[illegible] Glo. in l. quod [illegible] cum similibus quae ad id allegantur, [illegible]
[illegible] ut [illegible] si uero [illegible] uiro [illegible] solum [illegible]
[illegible] correctionis [illegible]
[illegible] Aretinus [illegible] manu. [illegible] et
[illegible] posito [illegible]
[illegible] tunc [illegible] non procedit, quia in utroque est eadem [illegible]
[illegible] et [illegible]
[illegible] in [illegible]
[illegible] et doc. de sententiis [illegible]
[illegible] in d. l. fi. C. de ind. uid. [illegible]
[illegible] eadem, uel par ratio [illegible] ibi patet, et similiter illud [illegible]
[illegible] in proposito operatur appositum in opposito procedit [illegible]
[illegible] paritate rationis [illegible] ut habetur per Bar. et alios in l. [illegible]
[illegible] in comparatiuis, in correlatiuis, in propositione [illegible]
[illegible] Aretinus, et alios in rub. ff. de aqu[illegible]
[illegible]
Et similiter [illegible]
[illegible] probatur ex decisione [illegible] in addit. ad [illegible]
[illegible] Nam [illegible] duo sint [illegible]
[illegible] statuto [illegible]
[illegible]
[illegible]
[illegible]
[illegible] reintegratur ad ius [illegible]
[illegible]
[illegible]
[illegible] expressa [illegible]
[illegible]
~~[illegible]~~ attamen in reintegratione [illegible]
[illegible] matris [illegible]
[illegible] maior [illegible]
[illegible] statutus [illegible]
[illegible]
[illegible] maior [illegible]

[illegible] succes. [illegible] casus [illegible]

[illegible] extensi. de casu [illegible]

[illegible] maius [illegible]

[illegible] c. confir. [illegible]

[illegible] extens. casu [illegible]

[illegible] tamen [illegible]

[illegible] excludatur, [illegible]

[illegible] idem [illegible]

[illegible] absurd. [illegible]

[illegible] filias in [illegible]

[illegible] constitut. p quem sequerentur correctiones [illegible]

[illegible] de bo. liber. cum vulgaribus, vere si [illegible]

ess. [illegible]

Tertio videt. q. qn duo casus sint æquiparati, tunc [illegible] ex-
tensio, qn in mibus, et p oia in mas.a illa [illegible]
Mats. Syl. in tract. exten. in v. [illegible] q. aut [illegible]
sorores, vel aliae mulieres ascendentes, vel collaterales [illegible]
descendentibus exclusis in orig., et p oia colligitur [illegible]
et q. in sup.tis casibus, vbi vult filias, vel eas descende[illegible]
culos ascendentes, vel collaterales [illegible] minus [illegible]
[illegible] vult in [illegible] seu alijs [illegible]
[illegible] aliis [illegible]

[illegible]

[illegible] venit, vt fuit extensio [illegible]
in eo nominatus [illegible]
in clemen. p.a in §. diocesanis de iure [illegible]
nia. in c. duobus col. 5. in [illegible]
vbi et istud tenet, q. cu iste tex. pluries [illegible]
[illegible] extend. [illegible]
casu nro, vr p ipsa constit. videri [illegible]
[illegible]
omnibus stet. [illegible]
sum in constit. q. soror ad success.m [illegible]
[illegible] esse decisum, p quo facit [illegible]
[illegible] et seq. p. [illegible] de [illegible]

[illegible] num posit. parte 6. [illegible]
[illegible] proximum [illegible]
[illegible] in c. Summam de cons iur. [illegible]
[illegible] non dicat [illegible]
[illegible] que necessitas inferatur [illegible]
[illegible] Ant. de Imol. in c. translato col. [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
et neptis [illegible] ratio iure [illegible]
semit. [illegible] ex [illegible]
diuerso iure [illegible] per [illegible]
catio nunc 4.ta memb. [illegible] consil. et late [illegible] m. 340. libditas, et
[illegible] potius [illegible]
[illegible] defuncto subsistit
[illegible] eius masculi [illegible] soror [illegible]
[illegible] conuenit, ne in [illegible] casu soror contineretur [illegible]
ut late tradit Cum. in cons. 117. A intestato, in princ. et latius [illegible] in cons.
30. vicec. lib. p.o unde cum [illegible] masculus uocatus sit in d. capite constitutionis,
[illegible] illo inclusiue [illegible] Bar. in [illegible]
[illegible] si defuncto [illegible] per illud tex. C. de suis, et legit. et in
[illegible]
[illegible] Item quod d. sorores excludantur patet ex d. [illegible] consti. [illegible]
[illegible]
[illegible]
[illegible]
[illegible] sororem [illegible]
[illegible] et late concludit Alex. [illegible]
[illegible] Bar. ibi [illegible] solu. matri. cum q.o sorores ex se [illegible]
Per constitutionem non potest perdere quis [illegible] adquisita.
[illegible] hoc casu [illegible] com [illegible]
[illegible] Angelina exclusa, et [illegible]
patet manifeste, [illegible] per constitutionem [illegible]
[illegible] exclusis, et [illegible] filiabus [illegible]
[illegible]
[illegible] Constitutio
[illegible]
§. [illegible] ff. de constit. princ. l. in [illegible] causis ff. de reg. iur. et C. [illegible] aliqua
[illegible] aliquid confert [illegible]
[illegible] itaque [illegible]

[illegible] admittur.

[illegible] ne posset [illegible] in marchia [illegible] unus ex [illegible] eius [illegible] tam [illegible] reintegrat. [illegible] non [illegible] com [illegible] voluit [illegible]

[illegible] Balthasar [illegible] in [illegible] Riga [illegible] ut ex eis patet [illegible]

[illegible] casus [illegible] diversus [illegible] reintegrat. [illegible] in potestate [illegible] nec [illegible] ex quo [illegible] tradit [illegible] in suo [illegible] casus [illegible] de calumniae.

[illegible] reintegratio [illegible] ut [illegible] in [illegible] de [illegible] ut in [illegible] [illegible] mercatores [illegible] et [illegible] [illegible]

[illegible] quae erat in [illegible]
[illegible] potest excludi [illegible] [illegible] vocatam
[illegible]
[illegible]

[illegible] a sua [illegible]
[illegible]
[illegible]
success. [illegible] defuncti [illegible] pari gradu [illegible]
aliud sequeretur maximum inconueniens [illegible] paritate, soror exclusa a [illegible]
existentibus in pari iure cum ea esset [illegible]
in pari iure cum ea existentes, [illegible] est [illegible] et eodem modo [illegible]
[illegible] ex aduerso allegatum.

[illegible] nullo
[illegible] instituit [illegible] de [illegible] a bonis quod
fuerat [illegible] sui, [illegible] eo casu uide [illegible] satis [illegible], sed in casu [illegible]
[illegible] D. Bernard. [illegible] paniqualcis unus ex [illegible] qui d. Agnesinam excluserunt,
[illegible] heredem eius [illegible], et [illegible]
[illegible] cum [illegible] ad [illegible]
[illegible] continua [illegible]
[illegible] non [illegible] hereditas [illegible] postumi [illegible]
et [illegible] Bernardini et [illegible]
[illegible] hereditate Bernardini [illegible] veteres ff. de acquir.
[illegible]
[illegible]
[illegible]
[illegible] in cons. 45. [illegible]
[illegible] excludit [illegible] succes [illegible]
et [illegible] eam exclusit [illegible] post decedit relicta ex se filia, tunc d. filia
[illegible]
eius [illegible] hereditatem [illegible]
deo ab ea non est auferenda arg. C. videamus ff. de neg. gestis.

[illegible]
[illegible]
[illegible]
[illegible]
[illegible] omni cetera [illegible]

[illegible]

[illegible] minimus allegat

[illegible]

[illegible] Et [illegible]

[illegible] fundum [illegible]

[illegible] Masculos [illegible] et non feminas.

Preterea demonstratur [illegible] masculis [illegible] patriarchas. Qui de talibus [illegible] alios.

Item debentur dicta talia Feuda [illegible] vigore [illegible] inter dictum [illegible] Antonium [illegible] Feuda Omnia Bona Feudalia dicti [illegible] fuerunt recepta Feuda [illegible]

Non obstante [illegible] Quia [illegible] successio ex testamento de iure [illegible] sententiatum [illegible] consilio parlamenti Foroiulii [illegible] mag.ci dni Franc.i Bembo locumt. et omnibus mag.cis dnis Hermolao Contareno eloquentissimo doctore: [illegible] Marco Bragnamo [illegible] in patria Foriiulii [illegible] Danielem de glemona: [illegible] marquardum dela Fratina.

Item non obstat [illegible] allegat aliquas duas feminas possidere aliqua [illegible] apparet ipsa [illegible] feminas [illegible] esse feuda recta [illegible] Nec [illegible] tales femine [illegible] Nec apparet [illegible] possiderent Et si diceret [illegible] ipsas mulieres [illegible] femine in feudis [illegible] Tunc respondetur [illegible] nostra quaestio non est [illegible] Et [illegible] talia allegare. Et dato [illegible] in Feudis [illegible] succedere possint Femine: [illegible] habere [illegible] feuda recta [illegible] deficientibus masculis [illegible] feudis: [illegible]

Item [illegible] Requiritur [illegible] Quod femine [illegible] omnia [illegible] communia [illegible]

[illegible] cum proprietate possessio: et ideo [illegible]

Et ideo non [illegible] excipit de proprietate. [illegible]

Iudicium possessorium est [illegible] [illegible]

petitorium ordinarium

Fundatur ex eo: quod femine non succedere possint in feudis.

Nam dicit. L. quod si sunt duo fratres: [illegible] de feudo [illegible]

[illegible] aliam [illegible]: quod moriatur sine liberis masculis: filia

[illegible]

[illegible] de [illegible] non [illegible]

Unde [illegible] non [illegible] Nam [illegible]

[illegible] femine [illegible] ex [illegible] non

potest [illegible] et [illegible]

potest [illegible]

Item alibi [illegible] masculis:

et [illegible] Filie [illegible]

Et [illegible] filiis masculis

[illegible] filiam [illegible]

[illegible] masculis [illegible].

[illegible] masculi [illegible]

[illegible] secundum sententiam [illegible]. et [illegible]

[illegible] quod femine succedunt in feudo.

potest femina habere feudum. [illegible] dominus voluerit eam investire. et sic

[illegible] investituram non [illegible].

[illegible] si feudum fuerit masculinum sive femininum

Si [illegible] paternum non in investitura dicatur. quod et pertinent

ad filias. Nam tunc. L. [illegible] admittit non [illegible] masculis.

Hec [illegible] herilis [illegible]

introducta [illegible] donationibus [illegible]

in [illegible] probos: et [illegible]: Qui honorem [illegible] statum domini

[illegible] conservare [illegible] defendendo personam res et

statum domini cum personis suis: et consilia suadendo: Que res

[illegible] femine [illegible] non potest. Et inde dixit L. [illegible] femine non succedunt.

Quia pugnam facere non possunt.

Nec [illegible] quod dicatur [illegible] substitutum [illegible].

magis [illegible]

Nam [illegible] feudum ac [illegible] L.

consuetudine [illegible] plura [illegible]

[illegible]
[illegible] pater [illegible]
[illegible] erunt
[illegible]
[illegible] notha
[illegible] nasci etiam [illegible]
[illegible] transf[illegible]
[illegible]
[illegible] secundum [illegible]
[illegible] videtur [illegible] succedere [illegible]
[illegible] succedat [illegible]
[illegible] possint succedere

Sunt in patria feuda [illegible] Si in huius [illegible] succedant femine non erit care feudum [illegible]
Item ad certam partem. ubi allegatur [illegible] inuestit secundum consuetudinem [illegible] Illa verba non [illegible] quod sit consuetudo ecclesie aquilegensis. Quod femina succedat [illegible] quod non [illegible] feudum quia [illegible] inuestitura [illegible] et iam [illegible] succedere. [illegible] successionem ut [illegible] personas [illegible] successione [illegible] Secundum [illegible] dicit [illegible] vult inuestire [illegible] nullo masculo [illegible] sic inuestite non probant [illegible] quod possint succedere. Et ubi dicit in [illegible] illas [illegible] non intelligitur [illegible] ecclesie consueuerant mulieres. [illegible] feuda [illegible] aquilegensis ecclesie. Ut sic obligentur ad [illegible] alii feudatarii [illegible] ecclesie.
Nec placuit quod femine succedant in feudo vigore [illegible] in hoc [illegible] in fauore [illegible] et contra [illegible] et non [illegible] Nobile.
[illegible] non erant masculi sed solum illa femina.
Et pro illa verba ubi in fine inuestiture [illegible] relationis [illegible] vasallos iurat et seruire [illegible] tamquam veri vasalli [illegible] intelligi debet [illegible] ut sic [illegible] ita intelligatur [illegible] de natura feudi est quod sit [illegible] et non conditionatum.
[illegible] illa verba cum personis et rebus apparet quod mulieres non possunt [illegible] quia non possunt [illegible] cum personis
Dum quod de castro [illegible] dictu castri [illegible]
[illegible] inuestitura [illegible]
[illegible] alios [illegible]
[illegible] probatum. Nec [illegible] quod non potuerit [illegible]

[illegible]

et maximum [illegible] et alia [illegible]
eorum erat requisitum.

Nec obstat illa [illegible] per partem [illegible] quod ille [illegible]
castri Tercinati [illegible] [illegible] rem [illegible]
[illegible] non dominum [illegible] Nec [illegible]
ut alle[illegible] plene per dominos consultos
dicit quod licet sit [illegible] tamen mulieres possunt succedere [illegible]
[illegible] feudum et [illegible]
[illegible] et in [illegible]

Ad hoc respondetur quod mulieres bene possunt [illegible] si [illegible]
[illegible] in instrumentis [illegible]
[illegible] et hoc primo [illegible] fuit [illegible]
[illegible] debere [illegible] nec per illas [illegible]
[illegible] sic [illegible] quod mulieres possint [illegible] tenere
[illegible] dominus [illegible] habere [illegible]
in instrumentis aliquibus non [illegible] quod possint succedere

Non [illegible] contradictionis [illegible]
[illegible] et si [illegible] montis
[illegible] tamen illa non [illegible] castra ut [illegible] notabiliter
[illegible] tanquam domini consulti.

Et [illegible] aliquibus [illegible] quod [illegible] talem [illegible]
ad [illegible] tenere [illegible] iure communi [illegible] per [illegible] verba [illegible]
[illegible] quod est consuetudo [illegible] adeo quod verba
[illegible] dicto [illegible] agitur [illegible] illa non
[illegible] mulieres succedant [illegible]
[illegible] illud feudum ad [illegible] ecclesie [illegible] sicut alii
feudatarii tenent ecclesie [illegible] sic onera feudorum [illegible]. Non
[illegible] sic [illegible] hec verba.

Item non [illegible] la Nobilta de nostro [illegible] nobile e notabile [illegible]
[illegible] cum omnibus [illegible]. et [illegible] instrumenta [illegible]
[illegible] feudorum [illegible] sic [illegible]
sic Nobilia [illegible] quia [illegible] non possunt: nec [illegible] requireret [illegible]
[illegible]
[illegible] magna
[illegible]
[illegible]
[illegible] nec [illegible]
[illegible] possint [illegible] non
[illegible] non sibi [illegible]
multe rationes possent [illegible] feudum mulieres
non debere succedere.

Et [illegible] sic [illegible]
[illegible] et mala [illegible] oriventur: numquam auditum est in patria quod aliquis [illegible]
[illegible] nec [illegible] de [illegible]: nec [illegible]

I[illegible] UXTA [illegible] ... [illegible] omnes [illegible]

[illegible] in actis [illegible] faciens [illegible]

[illegible]

[illegible] uno [illegible] eorum

[illegible]

[illegible] favorem

F R O [illegible]

[illegible]

[illegible] contrar[illegible]

[illegible] de omnes [illegible]

[illegible] regulariter

[illegible] quod non sunt contrarie quia [illegible]

[illegible] sunt [illegible]

[illegible] alia [illegible] tunc [illegible] omnibus [illegible] successive [illegible]. Et [illegible]

[illegible] Maynardum ypotheca [illegible] non poterat [illegible]

[illegible] heredi[illegible]

¶ [illegible] tamen [illegible] quod [illegible] Maynardi [illegible] in vita sua poterant creditoribus [illegible] bona sua [illegible] futura obligata sed [illegible] ex dictis [illegible] veniendos [illegible] ad bona pervenirent.

¶ [illegible] bona ipsius Maynardi essent obligata Benincasio eius filio propter dotem matris que fuerat obligata aliis creditoribus ex aliis causis. Sine dubio quantum ad fructus dictorum [illegible] que ad ipsum Maynardum pertinebant ipse Benincasius qui erat creditor patris occasione dotis habebat meliora et potiora iura quam alii creditores ex [illegible] cum debitum dotis erat anterius [illegible] dotis [illegible]

Et propterea [illegible] Benincasius ex isto capite [illegible] quantum [illegible] creditoribus [illegible] meliora et potiora iura quam alii creditores [illegible] et sic loquitur [illegible] dicta sententia

¶ Quantum vero ad proprietatem seu utile dominium dictorum [illegible] dicta [illegible] non potest [illegible] non consentientum. [illegible] dominus [illegible] emptorum [illegible] erat verus dominus ipsorum [illegible]. Sed nec [illegible] ad eum verus dominus [illegible] potuisset validare dicta [illegible] non consentientibus [illegible] asserit [illegible] et in iure [illegible] si feudum est antiquum et vasallus illud vendiderit seu alienaverit in extraneum et irrequisito domino [illegible] non valet. Nisi ad vitam ipsius alienantis. Sed post eius mortem poterat revocari per [illegible] proximiores. Qui alienationi consensum non prestiterant. Et ita [illegible] dominus [illegible] Sed ipsi vassallo tantummodo alienanti [illegible] de alienatione [illegible] qualiter [illegible] poterat alienari [illegible] dictum est [illegible] successerunt [illegible] voluntate [illegible] seu refutaverit domino [illegible]

¶ [illegible]

[illegible]

[illegible]

[illegible] non [illegible]

[illegible] non dicitur [illegible]

quando
vt prosos

Dico ... la ... dna ... aut
non potuisset ...
CRCO ...

... vadho ... Et ...
... CESSIC facta ...
... etiam ...
... primus ...
... certa bona ... quia videt ... continuat ...
... hec facta mentio ... ella ...
Et qui dicit fuisse aliena ... pro ...
... probare. Quod si non probat ...
... presumitur ... de verb ... om.
... sup. ... ex parte ...
... capitulo c. p. § p. Item ... d non
... Item pacia ...
... presentia emptionem ... obstat
... quod dictus ... nicolaus erat ...
... pecuniam ... Quia ...
... ones et donationes ...
Te ... in l. non ... de. C. si certum petat ...
... tutele ...
... omno ...

[illegible] de vasallo [illegible]

[illegible]

Additio [illegible] primis nostre [illegible] [illegible]

Contra frivolas [illegible] pactis [illegible]

ET AD [illegible]ARIFICA[illegible]NEM [illegible]

[illegible]

... probi moveri debeat dominus [illegible] ad [illegible] faciendam ubi ponunt
[illegible] certi sunt [illegible]
[illegible] moveant [illegible]

Et primo est gradus informationis qua una pars simpliciter informat
[illegible] moveri [illegible] Quia [illegible]

[illegible]

[illegible] est gradus presumptionis legis [illegible] quem
[illegible] inclinationis. Et [illegible] omnibus quinque [illegible]

[illegible] Cum vertitur questio [illegible]
[illegible] affirmant bona petita fuisse [illegible]
[illegible] contrarium qui asseverat bona
[illegible] considerare probationes factas per
nob[illegible] aut probationes de quibus in processu
[illegible] non est dubium quod in eorum favorem
[illegible] sacramentum [illegible]
[illegible] Aut tales probationes nichil relevant [illegible]
[illegible] liveret. Casus est in dicta l. [illegible]
[illegible] etiam si [illegible]
[illegible] parte [illegible] ipsos nobiles de villalta [illegible] semiplenam
[illegible]
[illegible] iuramentum eisdem nobilibus deferre [illegible]
[illegible] in casu nostro [illegible] nobiles de
villalta [illegible] plenam probationem tamen [illegible] quod saltem faciunt
[illegible]
[illegible] presumptione vehementes adminiculationis. Aut [illegible]
[illegible] per ipsos in processu. si non faciunt plenam probationem saltem faciunt
[illegible] verisimilem et consonantem coniecturam. Ex quibus [illegible]
[illegible] moveri ad deferendum iuramentum ipsis nobilibus de villalta. Que autem de
[illegible] sunt clare [illegible] apparet ex supra et infra dictis. Ex quibus [illegible]
[illegible] aut ipsi nobiles plene probant eorum intentionem. Et [illegible] iuramento
contenta in eorum favorem est ferrenda. Aut probant [illegible]
[illegible] verisimilitudinem et per consonantem coniecturam. [illegible]
[illegible] est ad iuramentum. quia eisdem deferri [illegible] supplementum
plene probationis ut dicto [illegible]
Et profecto [illegible] deducta sine dubio concludendum est [illegible] si ipsi nobiles
de villalta non plene probaverint. TAMEN probaverunt
[illegible] saltem verisimilitudinarie [illegible] per conson[illegible]
[illegible]

Dicit [illegible]

[illegible] Nos [illegible]

[illegible] tatum [illegible]

[illegible] sunt revocatio [illegible]

investiti de omnibus bonis [illegible] Dicit [illegible] non [illegible]
[illegible] actum [illegible] nos [illegible] de Villalta [illegible] dicto
[illegible] fuerint [illegible] quod cum [illegible] non [illegible]
[illegible] deffensores [illegible] Ergo dicit quod bon[illegible]
investitura illis nobilibus non debent [illegible] nos spectare.

Secunda. Item [illegible] investiture Reverendissimi domini patriarche Anthonii [illegible]
quod per eam [illegible] probatur intentio nostra. Primo quia non specificant
[illegible] nos petita inter alia bona que in investitura [illegible]
et cum non specificant. Sequitur quod non sunt feudalia: sed allodialia [illegible]
[illegible] specialis facta [illegible] bonis et aliis [illegible] regula:
intelligitur [illegible]
ff. de compensa[illegible]. Ergo dicit eam non probare bona per nos petita esse
feudalia: sed potius quod [illegible] allodialia [illegible]
sunt specificata. [illegible] opponit quod [illegible]

[illegible] videtur [illegible] Andreutius de Villalta [illegible] a domino patriarcha
Anthonio [illegible]

[illegible] Castrum et [illegible] Villalte
[illegible] omnibus bonis sitis in Villalta [illegible] erant [illegible] Domini
Ducis Austrie [illegible] ecclesie Aquilegiensis ut videtur constare [illegible]
[illegible] 1359. qui [illegible] fuit domino Francisco de Villalta [illegible]
Et propterea dicit quod id fieri non [illegible] in preiudicium [illegible] domini [illegible]
suorum per ea [illegible]
Et si fieri non potuit: Sequitur quod dicta investitura non sit valida et
sic non probat ullo pacto intentionem nostram. [illegible] petita [illegible]

[illegible] dicit posito quod sit valida: et quod per eam probentur bona [illegible] in territorio
vocato esse feudales: tamen dicit eam non probare intentionem nostram [illegible]

[illegible] et tunc [illegible] dicit habere feudum cum curte: quando habet curtem [illegible] cum villa: territorio: [illegible] aut quando habet curtem [illegible] [illegible] partes sunt quaterne [illegible]

[illegible] Cetera [illegible] sunt quaterne personas [illegible]

Sed certe clarissime constat quod licet castrum et [illegible] villa [illegible] sint feudalia: Nihilominus bona [illegible] [illegible] et sunt quaterne personas [illegible] duos consortes [illegible] fuerit [illegible] castrum et [illegible] villa [illegible] cum certis [illegible] ibidem particulariter [illegible]: Non propterea dicuntur habere feudum [illegible] curte: sed ex curtem: Quia [illegible] a [illegible] domino [illegible] illis bonis [illegible] [illegible] specificatio [illegible] Sequitur quod cetera alia bona [illegible] et eius pertinentia non sunt feudalia: sed allodialia [illegible] non sunt particulariter nominata in ipsa investitura. Quoniam exceptio ut diximus specialiter facta de aliquibus bonis firmat [illegible] pro quo [illegible] [illegible]

Ubi enim que specialiter [illegible] [illegible] exceptio [illegible] licet [illegible] sub [illegible] dispositione [illegible] comprehendi [illegible]

Tertia. Item [illegible] Testibus per nos Productis Duobus modis: Primo [illegible] nostri [illegible] et quod subiacent legibus ac [illegible] [illegible] non [illegible] et [illegible] admitterentur in testes [illegible] quod eorum depositiones non relevant de auditu et fama. quae [illegible] viguerit. [illegible] per nos petita sunt [illegible] ideo [illegible]

Item dixit et arguit. Quomodo [illegible] est verissimum [illegible] BONA [illegible] [illegible] fuerant feudalia. Si [illegible] consignavit [illegible] ipsi [illegible] vendiderunt [illegible] Quando [illegible] filius faciebat executionem dotis matris [illegible] [illegible] obtentam sententiam. Quia Dominus Jo. [illegible] declaravit [illegible] habere meliora et potiora iura in bonis patris [illegible]

[illegible] mensa [illegible] omnium [illegible] bonis [illegible]

[illegible] ut [illegible] contra [illegible] ne [illegible] allodialia [illegible]

Quinta. Item [illegible] arguit posito [illegible] quod nos [illegible] [illegible] quod intelligerent [illegible] nobilibus [illegible] Illustris Domini R. [illegible] et quod sub [illegible] admitterentur in testes: et quod eorum [illegible] plene possent [illegible] possessionem [illegible] allodialia et per consequens [illegible]. Quia [illegible] quedam [illegible] diffinitiva [illegible] contrarium [illegible] Foroiulii, qua declaravit dictum Andreuttum de Villalta habere meliora et vetera iura in bonis predictis quam ceteri eius creditores, et hoc occasione dotis domine [illegible] ipsius dicti Andreutii matris, cuius erat heres. [illegible] sic vigore huius sententie dictus Andreuttus [illegible] mandans executioni ipsam [illegible] contra dictum [illegible] eius [illegible] fecit illa pignorari pro credito dotis: cui dictus [illegible] consignavit omnia eius bona stabilia. [illegible] que nunc [illegible] nobis relaxari [illegible] feudis. Qua consignatione facta dictus Andreuttus comparuit coram [illegible] domino locumtenente [illegible] et [illegible] per suam magistratum declarari quod bona consignata pro pignore [illegible] dicto Andreutio [illegible] eius precium [illegible] ad [illegible]: Et sic [illegible] Andreutii instantiam D. Jo. contarenus locumtenens [illegible] declaravit quod dicta bona consignata possent et deberent vendi ad [illegible] vendita fuerunt: Et [illegible] dicit pars adversa [illegible] per declarationem Domini locumtenentis Foroiulii pro Serenissimo duce Do. Venetiarum BONA ista fuerunt [illegible] qui [illegible] locumtenens est loco Illustrissimi Domini Do. Venetiarum: QUI est dominus feudi. Ergo [illegible] consentiente et declarante Domino feudi sunt effecta [illegible] et allodialia [illegible] et [illegible]. Et cum sint effecta propria et allodialia: SEQUITUR ergo quod potuerunt livellari et [illegible] relinqui per dictum Andreuttum tamquam propria dicto Beltrando de [illegible] [illegible]

q. non [illegible]

[illegible] non [illegible] . DICIT q[uod] sequitur

R. [illegible]

Sed tantummodo de iurisdictione et [illegible] dictarum villarum: EX quo [illegible] vos possedisse alia bona dictarum villarum . [illegible] castrum et [illegible]

NA[M] dictarum villarum: Tamen dicit vos possedisse Jure liberi [illegible] et non Jure recti et legalis feudi. Quia debet constare [illegible] Instrumentis venditionum [illegible] per eorum productis in hac causa in processu ad [illegible]. [illegible] villarum [illegible] bona [illegible] [illegible] Jure liberi proprii:

VNDE debet dici [illegible] q[uod] [illegible] possederint bona existentia in villarum et [illegible]: [illegible] illa possederunt Jure liberi [illegible] et non Jure recti et legalis feudi: [illegible] quo illa [illegible] Jure liberi proprii.

In mat[eria] Feud[i]

An hic verba [illegible] contineat etiam possess. corporales fundos, et c[etera].

[illegible] MARIE [illegible]

[illegible] Tercini [illegible]

[illegible] dictorum [illegible]

[illegible] Villa [illegible]

[illegible] partem [illegible]

[illegible]

[illegible] inceptare [illegible]

[illegible]

[illegible] Primo moneor [illegible] Quia [illegible]

[illegible]

[illegible] Artious nullum reliquit post se filium [illegible]

[illegible] ut unde ex quadam investitura B. Amfredus patrem [illegible]
dictorum fratrum investitus quidem fuit suo [illegible] nomine [illegible]
de Castro [illegible] et Tercincti Inferioris cum [illegible] honoribus [illegible]
honoribus et [illegible] et aliis bonis quibuscumque ad ipsa castra [illegible]
tam propriis quam feudalibus [illegible] iure et forma quibus ab antiquo
fuerunt et tenuerunt eorum maiores et progenitores [illegible] castello
Apparet quod feudum esse paternum [illegible] castri [illegible]
[illegible] Fundatum quod [illegible]
tionem suam dicti fratres [illegible]
[illegible] quia in feudis regulariter femine non succedunt
[illegible] qui feudum dare [illegible]
[illegible] notandum, et de suc. feu. [illegible] filia [illegible]
dictum. Ut ad eas pertinent [illegible] casu [illegible]
dunt [illegible]
[illegible] sibi ut [illegible]
[illegible] per [illegible] investituram B. [illegible]
[illegible] investitus tam iure proprii quam feudi [illegible]
[illegible] investitus [illegible] Imo [illegible] de feudo [illegible]
et de proprio iure feudi Cum omnia bona d. Joannis [illegible]
patris dicti B. [illegible] propria [illegible]
devoluta [illegible] ipsi [illegible] domino [illegible]
investitum [illegible] colligitur ex investitura [illegible] Potuit [illegible]
[illegible]

[illegible] ecclesiam
et sine preiudicio veritatis quod non fuissent devoluta propria
[illegible] domino patriarche ex quo apparet [illegible]
[illegible] et propriis iure feudi intelligimus [illegible]
[illegible] manibus [illegible] domini patriarche [illegible]

ommodum inuestitum habere Cum [illegible] compatri sit intercidenda [illegible]

[illegible]

PRETEREA cum dicit aduersa pars et fuerit pro

[illegible]

naturae in suo feminine succedit. Respondetur nequaquam fuerit [illegible]

[illegible]

talis et neque in suo feminine non succedunt, et etiam [illegible] localiter secundum leges et aliter [illegible] in [illegible] notandum. Et de [illegible] Quin immo et si concessum fuerit pro inuestitura

[illegible] relicta [illegible]

non admittuntur [illegible] Non ob. et quod dicit pre

[illegible]

[illegible] patriarcham [illegible]

Regis [illegible] et pre [illegible]

[illegible] deuolui debuit secundum formam inuestiture in personam Bartholomei et [illegible] Maiestatis Regie [illegible] patriarcham [illegible] inuestitus fuit Bartholomeus Vorlicus de castro Tercineti [illegible] et sic [illegible] fuit [illegible] recessit [illegible] patriarcham de patria [illegible] Bartholomeus Vorlicus [illegible] viuebat et filius [illegible] unde nichil est quod [illegible] PRETEREA nequaquam verum [illegible]

[illegible] donec eidem [illegible]

Maiestas Regis Ungarie [illegible] patriam [illegible] Patria carebat [illegible]

Et prelati Nobiles et communitates patrie defenderunt et tuebantur [illegible] donec eidem [illegible] pastore prouisum esset [illegible] Maiestatem Regis [illegible] defenderunt et tuebantur. Finaliter Cum Maiestas regia subegisset [illegible] Totam patriam: Castrum Tercineti de manibus [illegible] de castello abstulit et ad [illegible] eiusdem Domini Comitis [illegible] de Ciuitate [illegible] misit et sic [illegible] omnibus notum esse [illegible] et [illegible] fuit [illegible] non solum alias consideratis et hoc apparet in articulis et attestationibus [illegible] etiam in instrumentis [illegible] processu productis.

[illegible] comoratus est in patria et tempore [illegible] regie et [illegible] et in loco [illegible] eiusdem:

[illegible] Bartholomeus Vorlicus et alij consortes de castello et de Tercineto

[illegible] propter [illegible] Non ob. Decretum Domini [illegible] restituant bona [illegible] Maiestatem regiam [illegible] patriarcham [illegible] non fuit [illegible] eodem [illegible] restitui [illegible] eius: nichil [illegible] potest [illegible] putare [illegible] Nec est verum quod Bartholomeus Vorlicus diffidauerit [illegible] patriarcham [illegible] verum est quod adhesit [illegible] et subditus eiusdem factus est [illegible] et ceteri alij de patria et [illegible] et sic per [illegible] in totum tollitur oppositio [illegible] facta.

PRETEREA [illegible] pars castri Tercineti cum Bonis ad [illegible] pertinentibus iure [illegible] ad ipsos spectare et pertinere debeat probatur et [illegible] per inuestituram [illegible] in personam Bartholomei Riccardi [illegible] Vorlici [illegible] M°ccc Lxvj. [illegible] apparet dictam quartam partem [illegible]

[illegible] esse [illegible] in [illegible] aut nulla descriptio [illegible]
[illegible]
[illegible] approximaverit [illegible]
[illegible] et cum [illegible] testamentum [illegible]
quo [illegible]
Non [illegible]
[illegible] in vulgari [illegible] non [illegible]
[illegible] et per alios feudatarios qui eodem tempore
[illegible] fuerunt [illegible] protocollo [illegible] esse [illegible]
[illegible] propter [illegible]
Nec ob. quod opponitur instrumentum investiture per Riccardi de [illegible]
[illegible] que [illegible]
[illegible] apparet in investitura per [illegible]
[illegible] dicte [illegible] [illegible] in personam [illegible]
[illegible] eiusdem notarii [illegible] revocatum est
instrumentum per Riccardi [illegible] et [illegible]
eundem non debent [illegible]

dederit in scriptis de feudo ipso antiquo [illegible] volunt [illegible] quod non
fuerat notarius. per Riccardus [illegible] antiquior et verisimilitudine notius
informatus plenius [illegible] in scriptis de ipso feudis antiquorum
[illegible] Posito et [illegible] veritatis [illegible] non
concordaret [illegible] illa pars instrumenti [illegible] circa omnia alia
[illegible] habeat omnia sua substantialia illesa [illegible]
[illegible] de testis. Cum [illegible]
dare in scriptis bona feudalia non sit de substantialibus neque
ad necessitatem investiture feudi [illegible] Casu quo [illegible] aut
bona specifice sit feudalia [illegible] Quia sit generaliter de omnibus
[illegible] per ipsos vel predecessores possessis [illegible]
[illegible] Unde nil efficit sive fuerint data
in scriptis sive non. Cum appareat ex investitura domini Manfredi
castrum [illegible] Tercincti [illegible] cum omnibus iuribus [illegible]
[illegible] et aliis bonis quibuscumque ad ipsum castrum spectantibus
fecit feudum: et sic [illegible] intentionem suam [illegible]
[illegible] sit [illegible]
[illegible]
[illegible] de [illegible]
per [illegible] aliud feudum [illegible]
castri [illegible] cum bonis [illegible] datam intentionem [illegible]
quod probavit [illegible] per testes ydoneos, Bona per dictos [illegible]
ad [illegible] partem castri Tercincti inferioris spectasse
et pertinuisse [illegible] spectare [illegible] Et a tempore [illegible]
[illegible] memoria non [illegible] Dicentes quod bona [illegible]
[illegible] tempore [illegible] spectasse [illegible] castrum Tercincti [illegible]
investiture per Manfredi: et [illegible] Riccardi [illegible]
~~[illegible]~~
~~[illegible]~~
[illegible] Cum simul [illegible]

[illegible] arrest[illegible] [illegible] .iiij
[illegible]

phat[illegible] p[illegible] in [illegible] q[illegible] verdus [illegible] [illegible] fratris. [illegible] [illegible]
[illegible] [illegible] cui [illegible] investivit de castro [illegible]
domenalis [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] in piano [illegible] in valle [illegible] [illegible] [illegible]
[illegible] [illegible] Cum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] domos
[illegible]
no [illegible] bona petita [illegible] dicto [illegible] [illegible] ad [illegible] castri [illegible] debere [illegible]
[illegible] erat [illegible] feudalia [illegible] [illegible] [illegible] tamen [illegible] [illegible] pertinere [illegible]

[illegible] investiture [illegible] Non ob. quod [illegible] no [illegible] [illegible]
q[illegible] concordat cum [illegible] ex substantialibus [illegible] [illegible] [illegible] [illegible] ff [illegible]
[illegible] ff. de [illegible] [illegible] [illegible] [illegible] Nec ob. q[illegible] no appareat
[illegible] mandatum a [illegible] [illegible] [illegible] ipso [illegible] [illegible] [illegible]
[illegible] nec dum diviserant bona feudalia. unde [illegible] maior gubernator domus
et coniuncta persona potuit investituram [illegible] absque mandato. [illegible]
ff. de [illegible] Nec [illegible] postea [illegible] divisisset [illegible] [illegible] [illegible]
a feudo antiquo. [illegible] [illegible] non appareat cum infra tempus anni. nec post
investituram a dno accepisse. ut in. c. omnes fili[illegible] ff. de fe. de [illegible]
[illegible] [illegible] investiendi. c. [illegible] sic feudum [illegible] [illegible] [illegible] pertineret.
ut in. c. si vasallus culpa[illegible] ff. de. fe. de. [illegible] Nec [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] destrudandum [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
. C. de fide instr[illegible] Probatur et. [illegible] [illegible] [illegible] [illegible] investitur[illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] electus [illegible] [illegible]
[illegible] [illegible] post confirmationem [illegible] [illegible] electus administravit Preterea
[illegible] potuit [illegible] [illegible] [illegible] [illegible] [illegible] administrationis [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] electionis [illegible]
[illegible] . PROBATVR et [illegible] [illegible] dictorum [illegible] [illegible] [illegible]
que [illegible] [illegible] [illegible] bona [illegible] esse feudum [illegible] [illegible]
[illegible] investituram [illegible] [illegible] [illegible] facta [illegible] [illegible] [illegible]
feudo [illegible] masculis femine no succedunt. [illegible]
[illegible] posse. [illegible] [illegible] [illegible] Debet [illegible] dictum [illegible] [illegible] [illegible]
[illegible] [illegible] Non. ob. [illegible] [illegible]
[illegible] [illegible] consue[illegible] sit in [illegible] [illegible] in [illegible] [illegible] et [illegible] [illegible] et
legali succedunt et femine [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] verum [illegible] [illegible] no extantibus masculis. Sed in casu nostro extabat [illegible]
[illegible] [illegible] [illegible] [illegible] fratris in feudo [illegible] [illegible] et [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] PRETEREA consue[illegible]
[illegible] no [illegible] [illegible] instrumenta [illegible] [illegible] [illegible] [illegible] [illegible] femine [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] tunc masculi [illegible] [illegible] [illegible] tunc masculi no [illegible] [illegible] [illegible] [illegible] in
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in talibus feudis masculos [illegible] et
no feminas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
ob [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dicto loco [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
bona [illegible] [illegible] fuisse feudo [illegible]

AVS DEO

[illegible] tum et [illegible] nobiles [illegible] in [illegible]

[illegible] prin. vel[illegible] no. oppa dom habere feudum in [illegible]
[illegible] Probat hoc modo: Si nobiles [illegible] de vellalea fra[illegible]
[illegible] a. ma [illegible] ant[illegible]. Solum de illis bonis in [illegible]
Sequitur q[illegible] alia bona [illegible] in vellitis [illegible] non sunt feudalia

[illegible]

[illegible] bona [illegible] fuerint [illegible]

[illegible] clare [illegible]

[illegible] allodium [illegible]

[illegible]

[illegible] § dom[illegible] [illegible] Et [illegible]
§. cui fundus. ff. de fund. instru. ubi ea que [illegible] nocuntur [illegible]
[illegible] duntaxat. Licet plura sub generali dispositione potuissent comprendi
[illegible] C. de [illegible] et l. [illegible] ff. de iudic.

[illegible]

... connexi[illegible] ...

[illegible]

... item unum [illegible] ...

[illegible] ... ianuarii ... [illegible]

... salvis exceptis. Volo q. dicta [illegible] ... [illegible]

... iuramentum ... [illegible] ...

... dictis ... [illegible] ... sibi adiudicant ... [illegible]

... [illegible] ... aliquid ... [illegible]

... non liberat ... [illegible]

[illegible]

... circa ... ad hoc ... [illegible] qualitercumque

... Intelligatur dicta hereditas ... [illegible]

non [illegible] ... iuramentum ... [illegible]

... esse causa ... iuramentum ut supra dictum fuit. Item ...

ypothecam ... [illegible]

... [illegible] ...

... sub die 14 Ianuarii 1501. Quia ... [illegible]

... facte promissionis dicta ypotheca ... [illegible]

... iuramentum optimus textus ... [illegible]

... [illegible] ... obliga. ... [illegible]

... [illegible]

[illegible]

[illegible] nm harduam Cone [illegible] marsour [illegible]
[illegible] [illegible]
[illegible] monnif [illegible]
[illegible] marig [illegible]
[illegible]

[illegible]

Mag.ci dni p[ro]aule p[ro] aiudicetis, Magnifici dni
Locumtenentes nostre gen. dny nec fuit Inuestitus

[illegible]

Lcr de quib[us] ipsi asserit sunt
fuerant p[er] mag.ci dmi
paulus tinach.

[illegible] 4 Camera forijulij
gesta et data p[er] [illegible] procuratores [illegible] et patrie [illegible] p[ri]vilegiis fuit affirmata p[er] [illegible] Nicolas ut p[ate]t [illegible] Fernando Rege [illegible]

[illegible] adima et ius astringendi [illegible]

[illegible] tion [illegible] camerarii [illegible] terra castella [illegible] filippo federico [illegible] [illegible] regula [illegible] camera forijulij post [illegible] Nam omnes Camerarii [illegible]

[illegible]

[illegible] bembo

[illegible]

[illegible]

[illegible]

ut [illegible] que sunt regules [illegible]

[illegible] questione sapiores que etiam [illegible]
[illegible] in dicto [illegible] et [illegible] Comunis [illegible]
data fuerunt minores tabors ut appet ex impositione.
[illegible] est [illegible] etiam deponunt testes [illegible]
[illegible]
Communitatis [illegible] [illegible]
[illegible] Nobiles sunt [illegible] hoc esse
[illegible] satis manifeste in pluribus Nobilibus huius [illegible]
[illegible] quis fuit olim Nobilis [illegible] Nicolaus delaturre
[illegible]
[illegible] fuit maximus dives [illegible] et
[illegible] possessiones [illegible]
[illegible] et
[illegible] Nobiles huius Civitatis [illegible] Matheus [illegible] de
[illegible] qui fuit maximus dives et [illegible] Cives [illegible]
[illegible] magni divites [illegible]
[illegible]
[illegible] aliquam [illegible] ab [illegible] Aquilegien. [illegible]
[illegible] hoc [illegible]
[illegible] et [illegible] qui [illegible] debet [illegible]
[illegible] Et [illegible]
[illegible]

[illegible]

[illegible]

[illegible] patho Sexto capitulo [illegible]

[illegible]

[illegible] Archiino [illegible]

[illegible] habet [illegible]

[illegible]

[illegible] ... [illegible] p̄mitie § Si ergo sic
in ipsis arcubus menstius q̄ ... bona et castra sunt pñncialia
... in eo debet dici de quarto menstruali ... de castro de Ar
bono:

[M]odo specialiter ad demonstrandum q̄ castrum Arbonum fuit pñncia
lium cum ... suis bonis pertinentibus in territorio dicti castri plurimis
rationibus et iuribus infrascriptis: Et primo probatur p̄ testes ...
[illegible] ... de dicto § ... [illegible]
et dicto alius § ... de omnis portione dispensat. qui ambo
... firmaverunt Castrum Arbani cum omnibus bonis fuisse
... [illegible] ...
[illegible] ...
[illegible] ...
[illegible] ...
[illegible] ...
ipsius dictos Nobiles Castellanos huius p̄tis que non possent
esse nisi aut p̄ vim aut p̄ commissionem predictam. p̄ vim aut
non ... [illegible] ...
p̄ facto. Item p̄ predictos Castellani vocati fuerunt fideles
... qui hodie vocant p̄ ... [illegible]
ut apparet in scriptis ... C in Castellum ... castella
et bona p̄ vim ... [illegible] ... non fuisse
vocati fideles, sed rebelles: ... qui ... voluntarie dominum
p̄ vim ... [illegible] ... non dicent fideles sed rebelles

[illegible] et quatuor [illegible] tpr [illegible]
ecclesia Castellani que fuerit [illegible] et [illegible]
[illegible] Cristi [illegible] ex quo [illegible] castr[illegible]
[illegible] et partinens [illegible]
debent [illegible] et reputari [illegible] quia
[illegible] reputatur [illegible]
exportantes [illegible] dicti [illegible] Arbore [illegible]
[illegible]
[illegible] Castri [illegible]
[illegible] deposicione [illegible] Concordia de
[illegible] ipso tempore fuit
[illegible] Italie parte et Lombardie
et [illegible] dictum [illegible] debet [illegible]
[illegible]
[illegible] Castellanum [illegible]
[illegible] et [illegible]
[illegible]
[illegible] castri [illegible] dicta castra

[illegible] possessionem dominii [illegible] predictam
[illegible] terris et [illegible] [illegible]
[illegible]

[illegible] nobilibus Castellanis et vasallis nostri [illegible] sicut [illegible]
[illegible]
[illegible] [illegible] [illegible] receperunt taleas sibi impo
sitas sicut ceteri contribuerunt pro rata sua: que imposite fuerunt
[illegible] Castellanie causa [illegible] Venetiis tempore [illegible]
[illegible] sicut ceteri castellani ut omnia predicta apparent in libro
Cancellarie sub quolibet regimine [illegible] in processu ad cartas.

[illegible] Arcbam usque in hodiernum diem fuerunt
[illegible] reputati [illegible] [illegible] hoc [illegible] et [illegible]
[illegible] probatur per omnes testes examinatos per [illegible]
[illegible] capitulo [illegible] [illegible] dicti [illegible]
[illegible] quemadmodum ceteri Castra huius pre
[illegible] castra recognita [illegible] ut apparet in p
[illegible] Preterea dicti Consortes de Ar
[illegible] pertinentiis castri habuerunt et [illegible]
[illegible] [illegible] tempore cum [illegible] ut apparet ad
[illegible] habuerunt [illegible] ius edificandi molendina
edificandi super aqua del [illegible] [illegible]
[illegible] dicti Castri: ut [illegible] [illegible] Antonia super molendino

[illegible] Cum [illegible] [illegible] ergo [illegible]
[illegible] est dicendum [illegible]
[illegible] in [illegible] partibus que illo tempore habuerunt regale; et si quod molitum reperiretur in illa aliquod [illegible] camere domini allud est illud esse [illegible] [illegible] subfractionem et deceptionem [illegible] [illegible] vel [illegible] [illegible] [illegible] per dictas partes pro hoc facit [illegible] [illegible] Bar. in l. quo minus ff. de fluminibus ubi tradit [illegible]

Aliud fundamentum [illegible] [illegible] possessores [illegible] consortes [illegible]

[illegible] pheudalium probatur ex [illegible] [illegible] quod est [illegible] [illegible] patris Marquardi [illegible] fuit questio inter Consortes [illegible] una parte et filios domini Bertoldi de [illegible] [illegible] vero bonorum pheudalium possessores [illegible] [illegible] Raynaldum et [illegible] Bertoldum eius filium [illegible] [illegible] fuit [illegible] in arbitros [illegible] [illegible] dicti domini patris Marquardi ut apparet [illegible] [illegible] productis [illegible] [illegible]

15. Item est [illegible] quod dicti domini Arbitri [illegible] et declaraverunt omnia bona possessa per dictos [illegible] Bertoldum et [illegible] Raynaldum tamquam pheudalia spectare et pertinere ad [illegible] masculos et non ad filias dicti [illegible] Bertoldi

Ceterorum Ardicini aliquid possidet seu tenuerint consortes supranominatos et quod hoc sit [illegible]
dum Odoricus qui fuit unus de consortibus Ardicini
dixisset seu fil[ius] defendentibus in quo bonis [illegible]
alii consortes qui inter se diviserunt bona et dicti [illegible]
et inter certa bona pervenit ad Gabrielem prez dicti olim [illegible]
[illegible] molendinum super aqua del [illegible], quod usque in
[illegible]
[illegible] dictos Consortes super [illegible]
[illegible] in processu ad cartas [illegible]
[illegible] Ardicini [illegible]
[illegible]
[illegible] et dimidia domus habitationis dicti olim Odorici, et apparet ex instro divisionis arbitrarie facte [illegible]
olim [illegible] Antonium de belgrado inter Johannem et
Riccardum ex una parte et olim Gabriele prez [illegible]
[illegible]
[illegible] apparet divisio [illegible] domorum
[illegible] et multorum [illegible] inter dictos tres Con
sortes cum dicto [illegible] divisionis in dicto Castro alias [illegible] super
[illegible] in processu ad car. 150.

[illegible] est advertendum ad [illegible] Odoricus
[illegible] est facta mentio fuit ille qui [illegible]
[illegible] dni Marquardi patre [illegible] filio [illegible] Bertoldi
[illegible] Bertoldi et [illegible]

[illegible]

cor. prim[illegible]

[illegible] dicendum [illegible] erit [illegible]

p[er] [illegible] dni [illegible] apparet [illegible]

et duo[illegible] [illegible] que [illegible] fuit [illegible] bonorum d[omi]ni

q. Rizardi et q. Bertoldi debet [illegible] eandem [illegible]

ut p[re]cedit q. habent [illegible] integrale [illegible]

ut [illegible] de parte sua [illegible] parte, quod e[st] de toto

quo ad totam [illegible] de re [illegible] que de tota [illegible] quia

una et eadem res non debet [illegible] iure censeri l. cu[m]

qui [illegible] Item est advertendum q[uod] ad dom[inum]

[illegible] pervenerunt [illegible] bona que dom[inus] [illegible] habuit

p[er] q. Rizardum et q. Bertoldum que fuerunt indicata

feudalia et apparet ex divisione facta p[er] dom[inum] [illegible]

Antonium [illegible] que bona [illegible] fuerunt indicata

feudalia [illegible] hodie [illegible]

[illegible] et est advertendum q[uod] bona [illegible] dom[inus] fuit

factum [illegible] inter dominum [illegible] et

dom[inum] [illegible] filios dom[ini] [illegible]

[illegible] possidebant [illegible] post mortem

q. [illegible] et q. [illegible] sui patris et [illegible]

non est dubitandum [illegible] fuit [illegible] non semel [illegible]

[illegible]

[illegible]

[illegible]

[illegible] in in p[ri]mis et tercio de Arch[iv]is

fuerunt et sunt p[re]hend[en]d[a]e sup[er] quibus sunt al[i]q[ua] vide-
[licet] de iure in g[e]n[er]ali non p[ro]ba[r]ent p[re]hend[enda]. Et p[ri]mo ne
sub datus al[i]cui[us] d[omi]ni qui fuerit in bello vel requisi-
tus d[omi]ni sicut alii vassalli fuisse p[re]sumat[ur] fuisse [illegible]
[illegible]
[illegible] investitura no[n] appareat in
[illegible] Jac[obus] de Belvis[io] in c. si vassallus si de feu[do] fu[erit]
[illegible] dicit q[uod] si [illegible] fuit in reg[no] [illegible]
[illegible] p[ro] qui fuerit
ff. de [illegible] l. [illegible] de [illegible] l. [illegible]
in [illegible] de [illegible] C. [illegible]
p[ro] toto patrimonio p[re]stitisse fuerit ff. de [illegible] l. fideiussor
[illegible] et de[m]um [illegible] vassallu[s]
[illegible] p[ro] feu[do] quod fuerit vel q[uod] [illegible] p[re]sumat[ur]
p[ro] toto p[at]rimonio fuisse. arg. l. [illegible] ff. de [illegible] et
[illegible] q[uae]stiones etiam
disputat Bal[dus] in d[i]cto cap[itu]lo si vassallus finaliter dicit
q[uod] ubi no[n] appareret [illegible] vel l[itte]ras originales recurret
ad [illegible] hominu[m] memoria[m] et fama[m] ut ff. de p[ro]b[ationibus] l. si
[illegible]
[illegible]
[illegible] vassalli [illegible]
[illegible] d[omi]n[u]s [illegible]

[illegible]
[illegible]

Demisionem dni tempore guerre cum quis et balistas sicut
alii vassalli, fecerunt et accesserunt ad consilium parlamenti sicut
alii Castellani et portaverunt vexillum tamquam ministeriales
banderam pro Castro de Arthano tales comes opinio inducit
presumptionem juris. Et bona possessa per ipsos consortes
fuerunt et sunt pheuda per supradicta signa quae presumptio
juris transfert onus probandi in adversarium quod aliter sit et quod
est contra opinionem et famam l. quero ff. de donationibus inter virum
et uxorem l. certi ff. de probationibus. Et hoc in contrario adversarius communi
opinionem et famam quod consortes de Arthano semper tenuerunt pro castro
et bonis existentibus ibidem prout dicunt testes super sexto capitulo
prime medule et capitulo. Et demum et investitura antiqua recep-
tum tempore domini Nicolai patriarche per ... Tingardi de Ar-
thano qui fuit investitus de omnibus pheudis antiquis
ut apparet ex privilegio producto. Que investitura licet
non habeat specificationem bonorum tamen recepit interpretationem
secundum consuetudinem patrie que fuit et est quod omnia castel-
lanorum bona possessa per Castellanos et consortes in patria dicti castri
fuerunt pheuda et quod dicta bona castellani castri tenuerunt ut
plene probatum est in processu. Que consuetudo est optima legum
interpres l. si de interpretatione ff. de legibus. Et quia occurrunt
questiones pheudales que dubie sunt debent terminari secundum
consuetudinem patrie et de similibus ad similia. Unde in presenti
questione nostra videretur dubium an utrum Castrum de Arthano
cum bonis sit pheudum recognoscendum ... ad consuetudinem
patrie ut si in patria sit universalis consuetudo quod omnia Ca-
stella sint pheuda secundum judicium debeat de uno castro
existente in patria de quo dubitatur utrum sit pheudum et
propter quod consortes castri de quo dubitatur fecerunt
gravamina angarias et alia onera imposita ceteris castel-
lanis ac etiam ipsi consortes dicti castri gaudent nobilitatibus
privilegiis et honoribus quibus gaudent consortes aliorum
Castrorum ut sic de similibus ad similia sit judicandum

et [illegible] [illegible] [illegible] et [illegible] de pheudi requirat [illegible]
habentes investituram acceptam per consortes dicti Castri Arthani [illegible]
quo certi Castellani [illegible] acceperunt eorum suas investituras
pheudorum vigore mandati [illegible] [illegible] ducalis domini que investi
tura venit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] fuit [illegible] [illegible] consortes dicti [illegible] [illegible]
[illegible] tempore [illegible] Et posito sine preiudicio veritatis quod [illegible]
consortes fuerunt [illegible] [illegible] aliquibus bonis propriis [illegible]
eorum successores [illegible] [illegible] investituram [illegible] habere [illegible]
[illegible] de lege [illegible] [illegible] [illegible] unde dicta domina Anthonia
que est heres fili ex testamento non debet admitti ad [illegible]
dictam investituram per dicta [illegible]

Et licet multotiens sit allegatum per ipsam dominam et eius procura
tores quod dictus olim Anthonius eius filius nichil sciverit
de dicta investitura nec et ipsa tunc in processu apparet contrarium
et primo quod ipsa domina Anthonia habuit noticiam de investitura
apparet ex depositione presbiteri Georgii Capellani in Arthano
super [illegible] capitulo ubi deponit quod domina Anthonia sibi dixit
quod Anthonius eius filius et Johannes Anthonius paucis diebus
ante exbursaverunt quinque ducatos pro privilegio pheudorum
Item dicit Johannes [illegible] [illegible] de Arthano ut apparet
ex eius depositione. Item quod dictus Anthonius fuit investitus
simul cum [illegible] Johanne Anthonio apparet ex depositione dicti Johannis
[illegible] qui dicit [illegible] [illegible] ab ipsis [illegible] Johanne Anthonio et
Anthonio quod habuerunt investituram a domino [illegible] [illegible] de
eorum pheudis. Item [illegible] deponit venerabilis dominus Johannes Franciscus
de Fontebono Cancellarius [illegible] Aquilegiensis qui dicit quod dictus olim
Anthonius sibi dixit [illegible] fuerat investitus simul cum [illegible] Johanne
Anthonio a magnifico domino Paulo [illegible] de eorum pheudis
ut apparet ex eius depositione super secundo et tertio capitulis
[illegible] [illegible] [illegible] [illegible] depositione [illegible] [illegible] Johannis
de Fontebono qui deponit vidisse dictum olim Anthonium et

S[illegible] Johannes Anthon[illegible] investitus [illegible] dominum Pauli
[illegible] ut apparet [illegible] cum [illegible] super [illegible] terre
[illegible] in [illegible] dicit in [illegible] testificatione
[illegible] terre capitulo [illegible] dicit [illegible] tempore
investitura [illegible] sub dno Paulo [illegible] Et sic ex predictis
clare constat [illegible] Anthonius fuit investitus
[illegible] Johanne [illegible] sub magnifico dno Paulo
[illegible] ipsa dna Anthonia [illegible] de dicta inve
stitura licet modo [illegible] fuit in [illegible] anime
sue que sola [illegible] propterea fuerit res
dubia cum de veritate constet [illegible]
[illegible] possessionem [illegible]
[illegible] possessio [illegible]
[illegible] petit [illegible] debere [illegible]
veros vassallos [illegible] remanere debere in possess[illegible]
feudalium [illegible] quibus in investitura mag[nifi]ci dni Pauli [illegible]
fuerunt investiti [illegible] tenutam acceperunt [illegible]
[illegible] tres casus aut [illegible] producta [illegible] illa bona
esse feudalia et tunc non est dubium quod agnati [illegible] remanere
debent in possess[ione] ut in c. i. [illegible] filio [illegible] agnato
[illegible] filio sine filiis masculis feudum devolvit ad agnatos proximos
quando feudum est antiquum et paternum non autem ad filiam ut in c. i. de
success[ione] feu[di] filia enim non succedit in feudo nisi in [illegible] ut
not[at] Bal[dus] in [illegible] feu[di] [illegible] ut in c. i. de [illegible] success[ione] feu[di].
Aut constat ipsa bona esse allodialia [illegible] hic dicit
succedi. Aut dubitatur [illegible] producta [illegible] non magis
constat an sint feudalia quam allodialia [illegible] dico quod agnatis dicentibus
bona esse feudalia filia vero [illegible] negante [illegible] dicente allodialia quod
isto casu [illegible] causa cognita [illegible] debeat [illegible]
danda agnatis casus est in c. [illegible] filiam [illegible] feu[di] [illegible]
[illegible] in c. i. de [illegible] inter agnatos [illegible] filiam. Et sic habemus duos casus
in quibus obtinere [illegible] agnati [illegible] est quando plene constaret bona
esse feudalia [illegible] est quod [illegible] quo casu tunc [illegible]
[illegible] agnatos ut [illegible] filiam. hoc [illegible]
in summa sub [illegible] feu[di] [illegible] in sua summa et
[illegible] Bal[dus] in [illegible] filiam ubi dic[it] [illegible] agnati [illegible]

[illegible] agnatos [illegible] filiam. Item [illegible] fuit [illegible]
[illegible] negante nisi [illegible] offendat non [illegible] feudum [illegible]
[illegible] filiam [illegible] agnatos [illegible] est agnatis [illegible]
[illegible] apud quem remanere debeat [illegible] apud filiam possess[ionem] [illegible]
[illegible] causa cognita [illegible] debeat [illegible] agnatis

Nāb adc cap̄us mēj pena adeptum cūt [illegible]

[illegible]

[illegible] ... ple plene pȝaūt et simile rēmanē dbent i pos [illegible] et ō omne dictuz. Sed ūo p̄a adusa pl[illegible] [illegible] et ō no credit [illegible]

[illegible]

[illegible] ... castellanos [illegible] [illegible] p[illegible]

[illegible] appet Antiquus [illegible]

[illegible]

[illegible] ... patria cuz villis et [illegible] dunt repiunt iure feudi [illegible] Et q̄ tales castellany tpre patrīe fuuerit [illegible] castellanos no[illegible] [illegible] in ffmmcor ecclie Aquilegī cuz Elmis et balistariys [illegible] insurgēt ... [illegible] presumptio q̄ dicti castri cu bonis huerit ab ecclia et patriarc. Et [illegible] hodie fecit

3. [illegible] tales castellany ouecati fueiut ad [illegible] perdimt [illegible] fuerunt facere pitharc corā tpre ad [illegible] fouz [illegible] plati castellany et comites [illegible] fondatary et fideles uocabunt. et sic hodie sunt.

[illegible] [illegible]

7. p̄ducta sit duo instra cuz [illegible] compromissariys in quibz appet clare q̄ castrum d' Archimo cuz bonis stabilib possessis p consortes in ptēz sunt sit feudi iuris [illegible] metescalchie et bandarie. Et q̄ in talib feudis filie femine fuerint exclusē. [illegible] remotiores in gradu que [illegible] [illegible] p consortes dicti castri [illegible] bona possessa p alios suos consortes sine diuisim [illegible] si illi consortes tunc obtinuerit bona possessa p ipos in duas ptes [illegible] sine p indiuiso esse feudi [illegible] eodem iure bona possessa ne una et eadz res diuiso iure censeat

5. deuetu est q̄ mortuis omib [illegible] fratri fuit diuisio [illegible] bonorum comuni [illegible] Gabrielem prem olim Antonij [illegible] portione tenuit. Et si Jacobum [illegible] Rizardum prem [illegible] appz in diuisione p̄ducta [illegible] antiquam consortes prem suaz possideret iure feudi [illegible] consortes obtinuerit [illegible] bona hodie repiunt apud consortes uiuentes diuisa iure feudi [illegible] ipa bona hodie [illegible] qualitas [illegible] possessa quare est q̄ hodie no dbent [illegible] feudi [illegible] antiquorum qualitas [illegible] possess fuit feudales [illegible] [illegible] attendi [illegible] qualitas antique possess fuit feudales [illegible]

6. Adductuz est q̄ castrum d' Archimo et consortes huit oneza et honores in oibz et plus q̄ alia castra et consortes huius patrie [illegible] sic ceta castra cuz bonis sit feudales [illegible] dicendum est d' Archimo. [illegible] clarius deduxi sit supra et in processu.

[illegible]

[illegible] investiture [illegible] fuerit simpliciter accepte aut et [illegible] si vellent facere et dicere quod nihil habet [illegible] consuetudinem prout dicit [illegible] Item si specificatio fieri p[illegible] [illegible] debeat veteris tenoris [illegible] in dicendum esse de veteri [illegible] specificaverit ultra investituras antiquas quod non est dicendum ne detur materia fraudandi [illegible] dominis in huiusmodi feudis.

S[illegible] deductum est quod veniente successione inter dominam Antoniam ex una et se Johannem [illegible] contentes ex alia dum ipsa peteret se tamquam heredem Antonii sui filii poni in tenutam et possessionem hereditatis [illegible] feudalium de quibus in investitura domini Pauli et de quibus ipsi [illegible] Antonii fuerant investiti [illegible] [illegible] fuit [illegible] debere poni in tenutam et possessionem bonorum hereditatis [illegible] [illegible] fuit [illegible] ipsi domine Antonie [illegible] [illegible] velle [illegible] ipsam investituram domini Pauli ut apparet in [illegible] [illegible] bona de quibus in dicta investitura sunt feuda.

Item ex alia declaratione clarius apparet dum declarat quod vina existentes super dictis bonis feudalibus sive vinea [illegible] debeant vendemiari [illegible] apud personas [illegible] quousque fuit declaratum [illegible] debeat [illegible] possessione ipsorum bonorum feudalium. Item investitura accepta per sorores Antonii declarat ipsa bona esse feudalia contra dictam dominam Antoniam [illegible] [illegible] solum est [illegible]

Ex [illegible] utique nedum presumptive sed vere constat ipsa bona esse feudalia et sic ipsos consortes remanere debere tamquam veros vasallos et feudatarios in possessione ipsorum bonorum non obstante [illegible] ipsius domine Antonie cum suis juribus quibus [illegible] copiose in aliis allegationibus.

Laus deo. Antonius [illegible] de [illegible] doctor [illegible] pro ipsis dominis consortibus de [illegible] [illegible] cum allegationibus compilavit.

[illegible]

5 tollit [illegible] ut [illegible] de [illegible] [illegible]

6 [illegible] possint ad [illegible]

Item 2° [illegible] tex [illegible] de [illegible]

7 [illegible]

8 [illegible]

9 [illegible]

10 [illegible]

11 [illegible]

12 [illegible]

[illegible] ff. ad trebell. [illegible] ex testo C. de collat. [illegible]

[illegible] sup[er] C. de [illegible] offi[cio] [illegible] qui [illegible] [illegible] tollat agnatio [illegible] [illegible] filius emancipatus [illegible] et [illegible] tenuit [illegible] [illegible] que se [illegible] [illegible] ultime glosature [illegible]
[illegible] institutionum [illegible] [illegible] aliq[ui] glosas [illegible]
[illegible] filius [illegible] [illegible] emancipatus [illegible] [illegible] non differt [illegible]
[illegible] solam [illegible] patrie potestatis [illegible] emancipationis [illegible] quo ad succedendum de iure civili [illegible] quo ad [illegible] [illegible] filius emancipatus [illegible] [illegible] de iure civili [illegible] filius [illegible] [illegible] introducta [illegible] de iure civili [illegible]
[illegible]
[illegible] per [illegible] ratione [illegible] agnatio [illegible] intelligendo [illegible] agnationem [illegible] [illegible] perveniat [illegible] [illegible] et hec pauca [illegible] ut [illegible] dicta sunt pro informatione [illegible] [illegible] materias studendi [illegible] ut [illegible] suis frustra non laboret. Laus deo amen.

[illegible] ob [illegible] de legit[imis] [illegible] filius emancipatus [illegible] [illegible] iure civili [illegible] patrie potestatis [illegible] emancipationis [illegible] de iure civili [illegible] [illegible] agnati legitimi admittuntur [illegible] filius [illegible] agnatus [illegible] [illegible] emancipat[us] [illegible] agnationem [illegible] [illegible]

[illegible]
[illegible]
[illegible]

[illegible]
[illegible]
[illegible]

mali

delitti

Incipit [illegible]

mali
delicti

Incipit ... osten quo

An appellet à nimis breui termino assignato qn̄ est peremptorius, et quid si nō est peremptorius.

In xpi nom. [illegible] Casus [illegible] talis [illegible]

cessit [illegible] qr de an. 1543 [illegible] die in [illegible]

R[illegible] de [illegible] q fuit dies [illegible] lyroni [illegible]

in [illegible] curtina [illegible] de la uia [illegible] sita [illegible] Zucconi

parti [illegible] a domo [illegible] de Zucc.o iacens que

[illegible] equos [illegible] in facie super [illegible] dorm[illegible]

[illegible] fuit [illegible] sue in [illegible] cu faci[illegible]

et [illegible] cu [illegible] uite ex quo [illegible] contus

et [illegible] effusus [illegible] et du [illegible] facinus

de petra [illegible] credens hotem mortuu [illegible] inter se [illegible]

re qd de hote sic ita occiso [illegible] et tu[illegible] ipsu

apprehenderunt [illegible] subtus brachia sustentantes po[illegible]

in domu [illegible] [illegible] cubi[illegible] puerum seu [illegible] fran

ci [illegible] Rosetti qui [illegible] reman[illegible] illa noct[illegible]

cubiculo et de mane 2da hora [illegible] fran[illegible]

misit filiu suu (Bnardinu) ad uocandu Josepin lyron[illegible]

[illegible] trem dicti [illegible] facin[illegible] [illegible] qd illa

[illegible] Dnicus [illegible] in domu sua [illegible] nescio quo

[illegible] quo facto [illegible] In Tabellam [illegible]

laborand[illegible] et facto die dn clamor [illegible] accurrit

ad domu fran.ci [illegible] uxor et m[illegible] et [illegible]

[illegible] alijs condu[illegible] seu [illegible]

[illegible] ad domu [illegible] sue

Delicti [illegible] sub die 16 [illegible] comissu [illegible]

ad aure[illegible] et Ill. co[illegible] D. D. Hier.mi [illegible]

[illegible] promoue[illegible] tanq Dnani

dictionis [illegible] ad [illegible] cont mali

[illegible] p.o sub die [illegible] aug.ti [illegible] delicti

[illegible] a consilio offen. [illegible]

quo con[illegible] die [illegible] jur[illegible] [illegible]
[illegible] caiu et m[illegible] et [illegible]
nut sus [illegible] et [illegible] dehu[illegible]
[illegible] [illegible]ationi [illegible] de cri[illegible]
peiti in [illegible] [illegible] et que [illegible]
[illegible] [illegible]at et die 26 [illegible] suscrini [illegible] carcera[illegible]
dic a[illegible] 3 octob cari[illegible] proponi[illegible] [illegible]
ut uiden[illegible] [illegible] processu
offens[illegible] [illegible] procedendo in ac[illegible] sua in [illegible]
guerrei[illegible] condemn[illegible] ad [illegible] damna et [illegible]
et ad [illegible] medi[illegible] [illegible] producit
sua ca[illegible] con. re. sup quibus [illegible] testes [illegible]
uit [illegible]
Modo aut[illegible] [illegible] mat[illegible] [illegible]cessu [illegible] [illegible] [illegible] prosi[illegible] in m[illegible]
diu [illegible] probare[illegible] rettentu[illegible] [illegible] carceratu
[illegible] [illegible] [illegible] et in isto [illegible] [illegible] dú [illegible]
condemnari ad [illegible] Juris ordin[illegible], imo nedu [illegible]
nana sed absolui debent [illegible]
C[illegible] [illegible] sont dubitan[illegible] [illegible] ut multe [illegible] f ipsi
sit quibus mediantibus [illegible] ut innocens [illegible]
1°. n. dicit [illegible] nos sumus in casu [illegible] quod uti[illegible]
nō probat multi[illegible] proponit[illegible] [illegible] [illegible] qui
[illegible] nō probant et regula [illegible] [illegible] actor [illegible]
bant reus [illegible] l. q[illegible] [illegible] [illegible]
2do In causis criminalibus ubi tractat[illegible] [illegible] penale [illegible]
hois et est ma[illegible] immo [illegible] l. [illegible] probatio
nes semp[illegible] [illegible] luce meridi[illegible] clariores . l. fi.
C. de proba[illegible]
3°. q[illegible] sumus in dubio ut melius [illegible] nocht dimitten[illegible]

q̃ inno ... continu... ... assertu ... ...
Item nullo ... inditia ... ...
... ...
alia q̃ ... ad informationem Iudicis ...
... et ... ... prob...
... ex ... ... et alia ...
... ... tollent ...
quibus q... ... ... aliquid ... ...
puto ... ... ad penã ...
... pecuniariã penã ... ... pro mondo ...
... ... consideratione ... plerumque ...
tibus ... ... indiciis ... ...
capitali ad pecuniaria ... accusatis ...

... q. ex quo sumus in casu de no... ... ... difficili
ma est probatio quapropter demus recurrere ad coniecturas
atq; Inditia atq; ad argumenta, in his n. casibus difficilis
probationis, et in his, in qbus ... adhiberi nõ so
lent, Inditia, argumẽta, presumptiones et coniecture ...
cunt pro plena probatione. l. nõ ... ... ibi
argumentis ... est ... ibi ... bonus ... ...
sia ff de ... mil. l. filiũ ... ff. de his q sunt su
ũ alie. Iur. l. si vicinis C. ... ... michae. ...
fil. ... ... et hanc regulam tradidit bal
in. l. siqs in noc. C de ... ... et idẽ bal. in auten
quas actiones in ... C. de sac. ... ...
probationi sufficit presumptiua probatio ... ...
dixit bar in l. in illa ... ulatione ... ...

ff. de utr. [illegible] q. in iis qui [illegible] possunt [illegible] [illegible] suf
cit in [illegible] [illegible] opinionem et [illegible]
bar. in l. de [illegible] § si quis [illegible] [illegible] col. 4. ff.
oper. nun. et [illegible] eundem in l. si quis ex [illegible] in
penul. ff. de edem. et in talibus casibus [illegible]
[illegible] probationem, coniecturae [illegible] manifestae [illegible]
l. si quis locuples ff. [illegible] testa. l. [illegible] imperato [illegible]
bar. [illegible] hinc Alex. dixit [illegible] in [illegible]
c. [illegible] multi [illegible] in fin. q. [illegible] diversas
litates [illegible] diversos [illegible] indu[illegible] et volunt
[illegible] facultatem probatione, sed potius amp[illegible]
et habilitate, et ideo iuris cons. [illegible] in vers. [illegible]
[illegible] bonis ff. [illegible] dicit q. circa probationem
non potest dari certa doctrina, sed totum arbitrio iudicis
relinquitur an aliquid sit [illegible] probatum et Idem [illegible]
Ant. [illegible] but. [illegible] in c. ex litteris in [illegible] not. de proba.
et multum notabiliter in proposito dicit Pau. de castro in
admonenti col. [illegible] vers. quantum dicat plene [illegible]
ff. de iust. [illegible] q. probationes sunt arbitrariae, [illegible]
dependent [illegible] Iudicantis arbitrio secundum subiectam
materiam ideo dixit [illegible] bal. in l. [illegible] C. [illegible]
Cogn. q. Inditia aliquando in tantum mouent iudicantem [illegible]
gunt ut cogant conscientiam iudicantis iudicare secundum [illegible]

Hoc presupposito uideamus que et qualia sint Inditia [illegible]
[illegible] illa sed primo [illegible] dicant

[illegible] hoc q. Inditia dicuntur et presumptiones [illegible]

sine loco prossi[illegible] . q[illegible] [illegible] rit[illegible]
et quot sunt [illegible] multa [illegible]
in [illegible] 2m p Instra [illegible] partis [illegible]
sitiones 4m [illegible] facti [illegible] eu
5m p [illegible] maxime [illegible] allis
asserti [illegible] per famam in [illegible] Indiciis uiolentis
c illud [illegible] opin hominum ali
cuius loci [illegible] maioris partis alterius comicinie
et dr cois opin cois personar credulitas et [illegible]
p audim probant

Modo sic in casu isto fuit Inqsitio formata et ad
Inqsitionem processum, dein uero accusatio supuenit et ad
accusationem partis fuit [illegible] processum ..

Utrum aut potuerit Inquiri dic q sic adinuentum [illegible]
de oi crimine possit [illegible] sine accusatore Iudici
offo p Inquisitionem, quod [illegible] aliquos [illegible] male
ficia remanerent impunita [illegible] plerumque [illegible] defectu accu
satoris impunita remanerent, qd repugnabat bono statui
reipublice [illegible] ff. ad [illegible] status
reipublice confundit si locus delinquentibus [illegible] Ideoque
summum remedium in [illegible] est acc[illegible] correctio.
Inquisitio [illegible] fieri pot arbitrio Iudicis [illegible] congruit ff. de
offi [illegible] l. [illegible] C de [illegible]

Inquisitio [illegible] facta fuit In loco originis [illegible]
delictum fuit [illegible] [illegible] supueniente accusatione [illegible]
acta facta in inqsitione [illegible]
[illegible] In [illegible] Inqs[illegible]

Item inuenitur [illegible] ... [illegible]

dum modo [illegible] ita [illegible] [illegible] alber. In tribus ma[illegible]

modo [illegible] [illegible] [illegible] uidelicet p°. q. ille cui qu[illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

uox [illegible] 2do q [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] iurisdictionis [illegible], 3°

ad aures [illegible] talis [illegible] peruenit. 4° [illegible]

a [illegible], quia [illegible] [illegible] [illegible] sed [illegible]

[illegible] causa [illegible] sed zelo iustitie [illegible]

[illegible] sic [illegible] procedit fuit ad Inquisitionem [illegible]

accusatio [illegible] [illegible] alia facta [illegible] [illegible]

ad unum [illegible] [illegible]. [illegible] in loco [illegible]

Inquisitio autem est Ius [illegible] [illegible] ad Inuestigand[illegible]

nam que iam [illegible] maleficium comissi et malefacto[r]

ignorat cuius Inuestigationis et Intellectus animi [illegible]

[illegible] quinque sunt gradus, uidelicet in [illegible] hominis [illegible]

tionis [illegible] [illegible] presumptionis [illegible]

[illegible] [illegible] et gradus indiciorum [illegible] et probat[illegible]

Item quadruplex est [illegible] [illegible] [illegible] impru[illegible]

seu [illegible] presumptiuus seu [illegible] [illegible]

seu [illegible] [illegible] seu plenarie informan[illegible]

[illegible] aut in casu in quo [illegible] malefactor [illegible]

[illegible] malefactor est [illegible], [illegible] defendendo se [illegible]

[illegible] delicti quod [illegible] [illegible] [illegible] fuit [illegible]

[illegible] [illegible], [illegible] [illegible] ad [illegible] [illegible]

presumptiones, et Iudicia,

Iudicia autem [illegible] adminicula [illegible] [illegible]

de quibus [illegible] poe [illegible] bar. [illegible] de questi:
non pot tradi certa doctrina, sed hoc totu relinquitur [illegible]
Iudicantis q sin [illegible] amon
strationu [illegible] iudicantis [illegible]
officio ut vid. [illegible] magis [illegible] eiusdem ff. de
testi. bar. in l. fi. de questio. gan. [illegible]
deb. quer[illegible] [illegible]

et nihilominus di [illegible] possum aliquo [illegible] et poni
[illegible] continua [illegible] bonae [illegible] sollicitr [illegible]
ad indagan. indicia [illegible] non iudicia
sunt aliis probationibus prox. et ponit hoc gan.
in tit. de questionib. [illegible] quo q et qualia precedent
et tempus culpa [illegible] ponit [illegible]
[illegible] si sit [illegible] aliquis pub. vox
et fama sic [illegible] si ille con.
quod fuit [illegible] pub. vox [illegible] fama [illegible] anti-
[illegible] mala [illegible] et fama [illegible] si inimicus
offen. [illegible] si [illegible] precedant.

videamus [illegible] si [illegible]
per publicam uocem et famā in villa [illegible]
[illegible] ille [illegible]
[illegible]
[illegible] publicam [illegible]
in sua uita si dice [illegible] stato [illegible]
[illegible]
[illegible]
[illegible]

probat' ergo p[er] illo ... famam ... illius diffinit...
a do. ro. tradit... ... bar. n. et ...
xima diffinitio ... est fama est cois opin...
manifestat ... ne prouen... ... ulterius
... in loco ... i. inter ...
... inter ops ...
sua glo. q. satisfact ... et prop...
q. qi[de]m famam ... attendit ... et ... pro...
... in conn... ... de testib. ibi ...
con...
... si sit ... mala ... et fame ... li...
... a car. is a ... 8
... car. is. ... a car. ib. a ... is.
in ... q. qi[de]m mala fama aut infamia
... multi ... mala .n. fama ...
opin. ... multu... l. minor ... tom...
... questio...
... bonifaci. in ... dec. due ...
... q. iudic... inter ... an ...
... mali ... inimicitia ... quia ...
... inimicus ... mali
... inimicus ... quis ut ...
... cuius fame ... mala ... opin.
multu... l. ... mino ... ...
... de questio ... bonif...
in ... iudic. q. iudex ...
... ad ...
... ...

iniurias [illegible] ... vo.untas [illegible]

l. diuus [illegible] [illegible] est [illegible] . in Indignum

[illegible] qd om [illegible] ~~uero~~ adimpleuit [illegible]

uide [illegible]

sunt [illegible] alia [illegible] dt bonif. in [illegible] [illegible] in fi.

q [illegible] tacito possunt [illegible] a comes, iudex [illegible]

[illegible] et ex illis [illegible] multa [illegible] et

uim animum inferaur ad prouidiam et uidere [illegible]

prouidentiam. ~~[illegible] ponit casum~~

Ponit aut casum [illegible] in titl. ~~quo cognosc et in~~

~~quisitiones~~ quam [illegible] a quo [illegible]

possit fama [illegible] [illegible] in [illegible] quid

[illegible] uideas.

In casu [illegible] isto [illegible] [illegible]

constat [illegible] [illegible] [illegible] ciuibus [illegible]

et [illegible] adiam [illegible] [illegible] homo [illegible]

est Infamatus [illegible] tali crimine q[illegible] [illegible]

clamat [illegible] [illegible] homo mali [illegible]

fame et pt [illegible] qualitates [illegible] uide [illegible]

quid aut [illegible] uide [illegible] In titl. a quo

et a qb fama [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] in [illegible]

[illegible] uide [illegible] opinio [illegible] apud [illegible]

erat illesa [illegible] uide [illegible] in

in [illegible] [illegible]

[illegible]

[illegible] posset [illegible]

tate [illegible] di [illegible] in c. [illegible]

[illegible] pusa [illegible] testimoni[illegible]

[illegible] [illegible] locus in [illegible]

[illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] presento [illegible]

[illegible]

[illegible] tertius [illegible] con. [illegible] est sufficiens

ind[illegible] ad tertiam bar. in cons. 191 [illegible] de burgo bal. in c. [illegible] par. lur. [illegible] m. 8 [illegible]

fama [illegible] ut [illegible] quest. di q. probar [illegible] duos tt.s [illegible] maior[illegible] [illegible]

[illegible] sentire

Quid si di [illegible] tt.s dicat quod audiverit a maiori parte hominum et [illegible] [illegible] est

[illegible] [illegible] hoc colligi quod maior [illegible] populi [illegible] [illegible] dicere nisi quod

[illegible] agitauit [illegible]

Immo si tt.s dicat quod est pub.ca vox et fama [illegible]

[illegible] civitate [illegible] maiori [illegible] huius civit. in civit. castro

[illegible] villa [illegible]

[illegible] si [illegible] tt.s [illegible] in [illegible] alter non dicat

[illegible] uno dic [illegible] alter [illegible] aut unus in

[illegible] alter [illegible] civitatem [illegible] ad uno [illegible] alter

[illegible] nō uiciat probatio [illegible] de [illegible]

ba[illegible] in loco [illegible]

fama [illegible] probant [illegible]

[illegible] ad [illegible]

si tts. in [illegible] dicat quod omnes [illegible]

[illegible] confessio [illegible] est [illegible]

ad [illegible] [illegible] [illegible] [illegible]

[illegible] ex [illegible] [illegible] a [illegible]

[illegible]

[illegible] a car [illegible] non mani

[illegible] dato [illegible]

a [illegible]

[illegible] probeni [illegible] ordi[illegible] [illegible] bn ad pena

[illegible]

[illegible] quibus proced.

ad con[illegible] [illegible] qm confessio [illegible]

sub [illegible] [illegible] [illegible]

[illegible]

[illegible] queri[illegible] [illegible] [illegible]

[illegible] [illegible]

p[illegible] quesiti.

In signum aute [illegible] [illegible] [illegible]

p° du di [illegible] [illegible] p[illegible] in dimidio [illegible]

p[illegible] aut [illegible] di [illegible] simul [illegible]

in [illegible] [illegible] [illegible] a car 16 [illegible]

2° du de [illegible] [illegible] [illegible]

[illegible]

no [illegible] audiunt [illegible]

[illegible] a car [illegible]

3° du di [illegible]

[illegible]

[illegible]

... dñ dr qd viue dixit ... alicuius p
quam ... no ... dr
q ... quando ...
... ad ...
valentia ... ideo ...
5º q ... aliquid 2º ...
... a car. 10 a fron ...
6º q ... p ...
ad ... 2º ... a car 6
a ... 4º a car 11 ... a ...
... a car 15 a fron ... a car ... a fron ...
... car 27 a fronte ... 5
7º ...
8º ... suspectus ...
... la ... interrogatorio
Hec obst. dñ dr ... qa ... no ...
... una ...
Hec obst ... qa ...
Hec obst dñ ... no erat ... ad ...
... qa ... dixit ... dñi ...
...
Hec obst ... qa ... no ...
...
Hec ... du dr ...
...
...
... quarto ... cot. 3 ... fronte

Hec ostendu [illegible] 8 [illegible] ad [illegible]
xme [illegible] quoniam
[illegible] in [illegible]
q immediate [illegible] domu
[illegible] ipso [illegible]
et illud [illegible] quando [illegible]
[illegible] ut [illegible] et illi [illegible]
sicut magis [illegible] ad [illegible]
longe [illegible] ita [illegible] q [illegible]
[illegible] istam [illegible] fabricatur ad [illegible]
tionis
Quo ad dictu [illegible] est unus [illegible]
nullius alijs adminiculi [illegible] salutis [illegible]
ad [illegible] fidem [illegible]
Hec [illegible] q [illegible]
mihi [illegible] q hec est
[illegible]
qa [illegible] q [illegible] questio [illegible]
Judiciu [illegible] tortum ad duo [illegible]
qa dicit [illegible] judiciu [illegible] spirituale
[illegible]
[illegible]
[illegible] ad [illegible] nel [illegible]
.5. [illegible]
[illegible] ad hec
Non [illegible]
opinionem [illegible]
ad [illegible]

non excusat [illegible] dñ [illegible] q quãdo [illegible] apparuit
nõ probanti [illegible] [illegible] [illegible] [illegible]
[illegible] glosa [illegible] [illegible] [illegible]
[illegible] [illegible] simpl[illegible] ad [illegible]
procedit [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] modo [illegible] [illegible]
procedit [illegible] a[illegible]

[illegible] sic concludo [illegible] ista [illegible] [illegible]
[illegible] quo ad pecuniariã pœnã imponendã [illegible]
[illegible] ut dr gand. in [illegible] [illegible] ind. [illegible]
[illegible] glosa ad cond. [illegible] [illegible]
[illegible] de ista [illegible] [illegible] mentionẽ bal. in add. ad
[illegible] [illegible] [illegible] [illegible]
ut saltem ad [illegible] [illegible] [illegible] poni [illegible]
tortura
4 an [illegible] [illegible] l. ~~[illegible]~~ ~~[illegible]~~ [illegible]
[illegible] si constat [illegible] hec [illegible] [illegible]
hospitiis [illegible] custodia [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible]
[illegible] ad [illegible] [illegible]
[illegible] ad [illegible] [illegible] [illegible]
[illegible] [illegible] bal. in l. [illegible] [illegible]
[illegible] [illegible] in l. [illegible] ad [illegible]:

Hec est [illegible] ga[illegible] in
[illegible] [illegible] dig[illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible]

Item obst. me[illegible] do [illegible] ille [illegible]
[illegible] pinum [illegible] bonif. [illegible]
sum [illegible] [illegible] [illegible] talr [illegible]
bari nō [illegible] [illegible] psonas [illegible] q
admittit [illegible] [illegible] oculte [illegible]
[illegible] sum [illegible] [illegible] dilec [illegible]
[illegible]

sed [illegible] alior. dispusai ad [illegible] q pinum to
[illegible] [illegible]

[illegible] confitetur [illegible] fur p judicatur [illegible] [illegible] confess. [illegible]

[illegible] judicis [illegible] condemnado. l. [illegible]

ad. l. [illegible] error [illegible] error [illegible]

[illegible] Cum ergo [illegible] confiteatur [illegible] homicidium [illegible] sequitur. p capitali pena [illegible]

[illegible] ut habetur [illegible]

[illegible] sicc. [illegible] non. [illegible]

[illegible] pan. [illegible] et ideo dixit [illegible]

[illegible] p homicida [illegible] illud [illegible]

[illegible] patri [illegible]

[illegible] capitis [illegible]

[illegible]

[illegible] obtinuit [illegible]

[illegible] contrarium [illegible] anno. [illegible]

[illegible] p pena mortis [illegible]

2°. p [illegible] pena mortis [illegible]

[illegible] fur absolui. Respondeo [illegible] an [illegible]

[illegible] illud [illegible]

i. hoc [illegible] q [illegible] pena capitis [illegible] homi-

cidium committitur ab aliquo [illegible]

[illegible] diui. [illegible] sicc. [illegible]

[illegible] homicidii [illegible] fuerit [illegible] culpa committendo [illegible]

[illegible] dolus [illegible]

[illegible]

[illegible]

1.0.

[illegible]

[illegible] dicatur [illegible] ppc [illegible]

[illegible]

0 [illegible]

1. [illegible] cuius [illegible] nominari [illegible] homo [illegible] [illegible] bona [illegible] [illegible] homicidium [illegible] occidendi [illegible] [illegible] nec [illegible] cxxxv [illegible] xi° [illegible] bona fama [illegible] accumulat [illegible] bona fama [illegible] faciat plurimi [illegible] occidendi [illegible] homicidio [illegible]

2 [illegible] occidendi [illegible] [illegible]

[illegible]

[illegible]

[illegible] ex quo igitur [illegible] habent [illegible]

[illegible]

ex loco [illegible]

[illegible]

[illegible] magr [illegible]

[illegible] discipulu [illegible]

[illegible] dixit [illegible] modo [illegible]

[illegible]

[illegible]

promittur ex pacto [illegible] ut [illegible]

[illegible] dotem [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] Ex quo videtur [illegible]

[illegible] amor maior [illegible]

arguat [illegible] animum non [illegible]

[illegible] voluntaria [illegible]

arguit animus [illegible]

nec [illegible] ut habetur [illegible]

[illegible]

[illegible]

[illegible] cessat [illegible]

animus [illegible] cessat ipsa pena [illegible] adiecit [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] In [illegible] dixi [illegible]

[illegible] supra [illegible] dixi [illegible]

[illegible]

[illegible] debeat [illegible] pena [illegible]

[illegible] qua [illegible]

[illegible] dicendo [illegible]

[illegible] alia [illegible]

[illegible] Colai [illegible] ut dicit [illegible]

[illegible] ipsius Colai [illegible]

[illegible]

[illegible] honorem [illegible]

[illegible]

[illegible]

[illegible] Ira [illegible]

[illegible]

[illegible] Et [illegible]

[illegible]

[illegible] per invidiam [illegible]

[illegible]

[illegible] alia [illegible]

[illegible] culpa [illegible]

[illegible]

non. dux [illegible]

[illegible] [illegible] contraria utriusque [illegible] dico [illegible] nulla [illegible]
[illegible] nec [illegible] quia [illegible] ad [illegible]
[illegible] tamen [illegible]
ad [illegible] vel ad vindictam [illegible] 2° [illegible]
[illegible] opinionem
[illegible] dico [illegible] ad [illegible] non ad [illegible]
[illegible]

.r. hoc nulli dubium [illegible] Jacobus [illegible] agressor. [illegible]
[illegible] agressor. [illegible] si quadr[illegible]
[illegible] in plagiis [illegible] tabernarius [illegible] ad l. [illegible]
[illegible] in ipso [illegible]
[illegible]
[illegible]
[illegible] non [illegible]
[illegible]
[illegible] Jacobinus [illegible] dicit sup. 24 [illegible]
[illegible] non [illegible] xxxvi [illegible] homici [illegible]
[illegible] agressor. [illegible]
[illegible]
[illegible]
[illegible] Jacobus [illegible] agressor [illegible]
[illegible]
[illegible] ad l. [illegible] non [illegible]
[illegible] in plagiis [illegible] tabernarius [illegible]
[illegible] ad [illegible] 430 [illegible]
[illegible]
[illegible] lxxvi [illegible]

[illegible]

[illegible] dixit [illegible]

[illegible]

[illegible] processionibus [illegible]

[illegible] praeter pro [illegible]

[illegible] clarius demonstratur. Et primo Premittendo

[illegible] esse et semper

[illegible] ad [illegible] et [illegible]

[illegible] et ipsos [illegible] semper

[illegible] esse et unum nolle [illegible]

[illegible] saltem alternis et [illegible]

[illegible] semper reputaverit [illegible]

[illegible] probantur non ex Testibus [illegible]

[illegible] sed ex ore ipsorum manzanorum. Nam ipsi

manzani iniurias falsas, et asserunt in Bembo [illegible]

asscribunt [illegible] falsas [illegible] et [illegible] Totus

est de domo eorum, et Causattum semper vocaverunt

[illegible] eorum familiarem et domesticum

et ipsi pro pretensis iniuriis Causatto illatis que-

rellantur Tamquam si ipsi fuissent [illegible]

ex processu 2° a c. 72 [illegible]

eorum amicissimum et ~~[illegible]~~ processu [illegible] c. 78

dum eundem vocant totum esse de [illegible] domo [illegible]

eodem processu a cartis 79 dum dicunt [illegible]

[illegible] damno [illegible] in domo [illegible] ipsi et [illegible]

[illegible] quod ipsi manzani pro eodem [illegible]

[illegible] et in eodem proc[illegible] c. 75

De Causatto quod eum Tenent et reputant [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

2° [illegible] supponit [illegible] quod dum [illegible] Cus. in dicto [illegible]
[illegible]
[illegible]
[illegible] de [illegible] anno [illegible]
parum dicens [illegible]
cum Donatello [illegible]
Tum [illegible]
[illegible]
deponunt quod Daniel Amator a c. 27 t. et quod Cam[illegible]
[illegible] in eorum [illegible]
2° [illegible] presupponitur [illegible] esse [illegible] Brunto [illegible] de
mane [illegible] dum [illegible] et D. Cus. [illegible] Dominum Dionisii cum
Bemulo [illegible] ante domum D. [illegible] et ma
[illegible] suo [illegible] poterant [illegible] ad eorum [illegible] in
[illegible] inter dominum [illegible] Bembi que est e regione [illegible]
[illegible] et [illegible] Cum [illegible] Dnum Cus. [illegible]
[illegible] fecit contra [illegible] fuerat [illegible]
[illegible] ipsius Bembi [illegible] Franciscum et [illegible]
[illegible] aggressi fuerunt eundem [illegible]
contra eum adeo quod [illegible] prostrarunt [illegible]
[illegible] fuisset [illegible] eum [illegible]
quod eo tempore in domo dicti Bembi [illegible] armati [illegible]
[illegible] et [illegible] fratres [illegible] Manzano [illegible]
et [illegible] et deponunt [illegible] processu [illegible]
[illegible] a c. 92 et 93 [illegible]
a c. 94 t. [illegible] a c. 70 et t. et
[illegible] Camillus [illegible] et [illegible] et [illegible]
Testes [illegible] omnibus [illegible]
Bembus [illegible] fecit contra ipsum D. Cus.

[illegible] ipsius [illegible] favore [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] separatis

Ultra predicta [illegible] demonstratur [illegible] fratres
[illegible] et [illegible] [illegible] [illegible] [illegible] et [illegible]
[illegible] [illegible] [illegible] [illegible] fratres [illegible]
[illegible] domi [illegible] [illegible] [illegible] integeritatem [illegible]
[illegible] [illegible] [illegible] prefatos patres [illegible] [illegible]
[illegible] [illegible] cum [illegible] et [illegible] contra
[illegible] [illegible] [illegible] [illegible] dubio [illegible] [illegible]
[illegible] et [illegible] in domo [illegible] [illegible] recepissent.
Videantur in 12° [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] 12 [illegible] In eodem ventura [illegible] [illegible] 31 [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] 18. franciscus
[illegible] [illegible] [illegible] d'[illegible] [illegible] 93. [illegible]
[illegible] [illegible] 45, et [illegible] Camillus de
[illegible] [illegible] 64 [illegible] [illegible] [illegible] 63 [illegible]
de [illegible] 8 [illegible] [illegible] [illegible] 29.
[illegible] [illegible] 27 [illegible] [illegible] 69 [illegible]
[illegible] Barbarus [illegible] 41 [illegible] qui deponunt [illegible] non
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
domum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] offendere
[illegible] et [illegible] [illegible] [illegible] Dominus
fredericus [illegible] in Conventum [illegible] [illegible] [illegible]
[illegible] [illegible]. Nec [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] nomi[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] in omo
[illegible] [illegible] [illegible] [illegible] [illegible] plene et
[illegible] deponi[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
de omnibus qui [illegible] fuit proditorie vulneratus [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] fuit et [illegible] [illegible] [illegible] in processu
[illegible] No[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] quia contra eum
deponunt [illegible] [illegible] et rumores et [illegible] [illegible]
[illegible] examinatis qualis est iste [illegible] [illegible] [illegible]
[illegible] Et similiter non obstant dicta [illegible]
[illegible] [illegible] familiarium [illegible] bembi [illegible]
[illegible] [illegible] et [illegible] [illegible] [illegible]
[illegible] hieronymum [illegible] Man[illegible] et [illegible]
[illegible] domini [illegible] Quia contra ipsos plures
Testes et dictiones deponunt ut videri potest [illegible]
[illegible] eorum falsitas detegitur ex dictis et [illegible]
ipsorum Man[illegible] [illegible] [illegible] fuerit [illegible] de [illegible]
[illegible] in [illegible] processu [illegible] Hieronymus et [illegible]
[illegible] [illegible] [illegible] [illegible] domini bembi Et [illegible] non
[illegible] hieronymus [illegible] causato Sed tamen falsum
etiam eorum [illegible] [illegible] [illegible] [illegible] in ea domo [illegible]
[illegible] patet per [illegible] [illegible] bo[illegible] [illegible] processu [illegible]
[illegible] et [illegible] Sunt [illegible] [illegible] quibus
[illegible] [illegible] adhibenda est propter eorum [illegible] et
[illegible] [illegible] [illegible] plene probatum est [illegible]
[illegible] in processu ad defensam [illegible] [illegible] [illegible]
[illegible] 24 [illegible] et 25 et contra francisc[illegible] [illegible] [illegible]

processu [illegible] 4 [illegible] ris [illegible] 17 [illegible] 19
[illegible] 20 [illegible] De [illegible] ipsum [illegible]
[illegible] processu [illegible]
eodem [illegible]
[illegible] et ipsum dicta die [illegible] eundem [illegible] modo
[illegible] dies [illegible]. Quo [illegible] ad [illegible]
[illegible] non fuit examinatus [illegible]
[illegible] ut patet in 2° processu
[illegible] videatur [illegible]
[illegible] et [illegible]
Constat [illegible] fuisse ad domum Bembi causa ipsius Bembi [illegible] Dominum
Cus.[illegible] [illegible] et non causa
[illegible] non crediderit [illegible] verisimile
credidisse [illegible] temporis fuisse armatos in domo ipsius Bembi
in [illegible] eundem contra [illegible]. Non obstante dicta [illegible]
Joannis [illegible] Marini [illegible] 30 in 2° processu dum dicit Dominum
Federicum ad interpellationem [illegible] confessum
fuisse [illegible] se fuisse ad domum Bembi causa offendendi
eius filios, quia deponit non verisimilia. Nam [illegible]
dictum est, non est verisimile quod ipsi [illegible] inermes
[illegible] domum Bembi [illegible] in ea cum familia [illegible]
[illegible] aggressoribus [illegible] quod in ea fuissent [illegible]
[illegible] prout erant [illegible] Contrarium deponi-
[illegible] de Crema [illegible] per [illegible]
[illegible] Dominum Cus.[illegible] [illegible] causa Bembi [illegible]
[illegible] praeterea [illegible]
[illegible] contrarium deponunt [illegible]
[illegible]
[illegible]
[illegible]

[illegible] fuerunt [illegible] et
firmati, et sic intelligendum est, quod voluerit [illegible]
[illegible] bembi [illegible] et [illegible]
Verum quia Manzani fregerint pacem et Treuguas [illegible]
[illegible]
[illegible]
[illegible] de [illegible]
[illegible]
[illegible] ipsi boiam essent, et cum quibus [illegible]
[illegible] Dominus Eus. [illegible]
[illegible] erunt [illegible]
[illegible] pontis ubi erant ipsi Manzani [illegible]
statim cum pluribus armatis exiverunt se partientes
se in [illegible] tres partes et tamen omnes [illegible]
[illegible] mercatum cum quo fuerat Dominus Eus.
e festo suprascripto [illegible] cum tribus vel quattuor
pueris nobilibus civitatis. Et ipsi Manzani [illegible]
[illegible] colloquio cum [illegible] Augustino [illegible]
[illegible] Cum primi ad mercatum applicuerunt
et Dominum Eus.m viderunt eum circumdantes et [illegible]
[illegible] ne aufugere posset, aggressi fuerunt [illegible]
[illegible] eum [illegible]
[illegible] et nisi adiutus fuisset a [illegible] a fratre [illegible]
[illegible] et ab [illegible]
[illegible] et [illegible]
Manzanis [illegible] tamen [illegible]
acriter quattuor [illegible] letalibus vulneribus [illegible]
necnon et Dominum Lelium et Dominum Dantem [illegible]
[illegible]

[illegible] et [illegible] negri[illegible] [illegible]

[illegible] [illegible] [illegible]

3 [illegible] etiam per [illegible] tem ad [illegible]

ne [illegible] [illegible] et [illegible] tertium [illegible] dictum

[illegible] noct[e] [illegible] [illegible] multum etiam [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] domo [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] ex [illegible] domo [illegible] [illegible] aderant ad quod

[illegible] [illegible] [illegible] et [illegible] [illegible]

prefatos [illegible] [illegible] ut patet per quod processu ex

depositione [illegible] 6[illegible] et 60 ex deposi-

tione magistri Joannis de [illegible] [illegible] et ex

depositione Joannis [illegible] 155 [illegible] et ex [illegible]

[illegible] testium in eodem processu qui viderunt

eos [illegible] cum armis [illegible] et [illegible]

per eandem viam et compluri[u]m deponentium ex auditu

Et ad predicta facit dictum d[omi]ni hieronymi [illegible]

qui cum loqueretur de [illegible] et [illegible] ratio

nabili causa vulnerato a [illegible] d[omi]no [illegible]

[illegible] et Joanne de [illegible] prefato Augustino [illegible]

Joanne [illegible] [illegible] [illegible] debant agere

et quid preparaverant dixerunt eidem d[omi]no [illegible]

nemo [illegible] [illegible] [illegible] che me pareria [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] de [illegible] videatur [illegible] [illegible]

[illegible] et [illegible]

[illegible] etiam predicta [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

associati ab ipsis met manzanis et pluribus alijs armatis [illegible] [illegible] et [illegible] ibi fuisset [illegible]
[illegible]
contra [illegible]
ut clare ex primo processu apparet.

[illegible] in [illegible] et multis alijs [illegible]
et [illegible] consequenter [illegible]
[illegible]
[illegible]
[illegible]
[illegible] 21. 22. 23. [illegible] processatum [illegible]
[illegible] scandalum mortis aut vulneris
scientes [illegible] deliberaverant et proposuerant facere
contra ipsos bri[illegible] item ex armis [illegible]
[illegible] dispositis et insidijs preparatis contra
ipsos fratres [illegible] ut ex dicto 5[illegible] processu apparet
Que omnia sunt manifesta signa mali propositi
pensamenti ipsorum manzanorum.

[illegible] omnibus et alijs que in processu [illegible]
In primis patet ipsos manzanos esse reos [illegible]
[illegible] pacis factae et insultus et vulneris ipsius [illegible]
et [illegible] illatorum et ex consequenti ipsos [illegible]
[illegible] innocentes nec in aliquo culpabiles [illegible]
[illegible] per manzanos. Non obstantibus [illegible] per
manzanos examinatis et similiter in alijs [illegible]
[illegible] oppositionibus contra ipsos [illegible]
[illegible] processu [illegible] in [illegible]
formatis clare dinoscitur.

[illegible] dni [illegible] [illegible] [illegible] [illegible]
in quo loco con[illegible] concertatione [illegible] et cum
et fratre [illegible] sed [illegible]
[illegible] convenit [illegible] [illegible] et
[illegible] [illegible] [illegible] [illegible] convent dum
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] proferre ~~[illegible]~~ et
[illegible] [illegible] [illegible] [illegible] [illegible] in
[illegible] [illegible] Gradelsono [illegible] et [illegible]
fideli prefati dnj Lelij qui dixerat quod ipsum [illegible] et
socios [illegible] omnino sbalzare in gramma in
[illegible] videns dictus [illegible] eundem Cansattum
ante Dominum m[illegible] Cantorie ubi [illegible]
[illegible] [illegible] eundem Cansattum interpellavit an
vera essent que de ipso dicta fuerant [illegible]
[illegible] [illegible] de patronis suis
dixerat [illegible] quod ipsos volebat sbalzare in [illegible]
[illegible] superbe respondens [illegible] affirmavit per
[illegible] dicta sed addendo dixit quod etiam ipsum sbal-
zaret et [illegible] dicendo [illegible] manum ad daggam [illegible]
erat armatus [illegible] ipsum Gradelsum [illegible]
offendere. quem etiam offendisset nisi [illegible]
et [illegible] [illegible] se [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] potius [illegible] [illegible]
[illegible] [illegible]
[illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] fuerunt [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] ad eorum deffensionem [illegible]
[illegible] [illegible] [illegible] [illegible] processu [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
producentibus dictis duorum testium per adversarios
examinatorum contra duos varios falsis, et appro-
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible]
esse videantur testes ad eorum deffensionem examinati
[illegible] in processu [illegible] [illegible] deffensionem [illegible] [illegible]
[illegible] contra [illegible] Joannem de Cammaiore
[illegible] [illegible] art. 14 et [illegible] art. 17 [illegible] et art. 23 [illegible]
contra [illegible] [illegible] Simonis [illegible] in eodem processu
art. 9. art. 17. [illegible] art. 21. [illegible] art. 23. [illegible] et 24. et aliis
multis.

[illegible]

[illegible] Secundo [illegible]

per [illegible] in [illegible]

[illegible]. Et hic [illegible] Considerandum [illegible]

[illegible] veritas confessionis [illegible] apparere [illegible]

[illegible] in condemnando [illegible]

Q [illegible] ad primum [illegible]

[illegible]

[illegible]

Confessio facta [illegible] non probat [illegible]

[illegible]

Confessio [illegible] informant [illegible]

[illegible]

[illegible] facti [illegible] effectus [illegible]

[illegible]

[illegible] facta [illegible] in aliis indiciis [illegible]

[illegible]

Confessio repetita in diversis locis [illegible] temporibus [illegible] habet vim iudicialis confessionis.

.6.
testes non sunt singulares ut hic.

singula simul facta iuvat cum accidentium non p...

... concordantia ... concordando ...

... in ... quo ... in summa ... causa ...

ex proposito ... in ... in s. dudum, de conver...

... in b. suspendit ... et sext ... in ... deu ...

tentia .c. de pen ... quod not. Joan. and. in c. nihil. de

obb. sign. Et ex ... Constat intentione presbiteri Nicolai

... pr...

Viso ... quod intentio querelantis est probata transeo ad 2m

... utrum exceptiones in ... oppo

site ... impugnent et eludant intentionem presb.

nicolai. Ad cuius evidentiam ... est sciendum quod ... ex

ceptionibus ... intentionem ... nicolai

9. ... conantur impugnare. Quod bene potest, ut in l. nemo ... de

reg. iur. ... pluribus de reg. iur. in. vi ...

Primo ... quod accusator Stranositus ... armatus

uno ... et uno ... animo et proposito occidendi ...

satum venit in villam collis sti Martini. 2o ... vulnus

intulit ... accusatus: illud intulit causa se defendendi et mor

tis subterfugiendae. Ex prima exceptione parum iuvat

accusatus: tum quia quod ponit ... ut dicit Stranositus, non apparet ex processu. tum ... ...

Liber ... bia.

secunda ... Stranosi...

[illegible] [illegible]

[illegible] non [illegible]

[illegible] iudicari no[n] debet [illegible]

[illegible] Primo q[uod] [illegible] [illegible]

suo [illegible] [illegible] [illegible]

[illegible] cum [illegible]

[illegible]

[illegible]

[illegible] [illegible] cum [illegible]

.13. [illegible] q[ue] [illegible] [illegible]

[illegible] [illegible] [illegible] quod apparat [illegible]

[illegible] p[er] [illegible] [illegible]

[illegible] non [illegible] [illegible]

[illegible]

[illegible] autem [illegible] in manu [illegible]

[illegible]

.14. [illegible] [illegible]

[illegible] [illegible] [illegible] Et [illegible]

[illegible] [illegible]

[illegible] [illegible]

[illegible] similiter [illegible] Et hoc ex confessione dicti [illegible]

18\. [illegible] extraiudicialis [illegible] [illegible] Nicolai [illegible] extraiudiciali. Quod tamen sufficit parti ad eius innocentie declarationem, ut patet ex not. in l. [illegible] [illegible] [illegible] de filii. adie. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pro [illegible] [illegible] [illegible] factum

[illegible] [illegible] homine. Superest ut uideamus [illegible] hoc [illegible] [illegible] [illegible] [illegible] quod sic [illegible] ratio, quia si [illegible] [illegible] ob tutelam [illegible] [illegible] aliquomodo [illegible] defendere, ut in c. ij. de homi. et in l. scientia. ff. ad l. aqui. ubi dicit' [illegible]

20\. [illegible] omnes [illegible] iura permittunt. Ergo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. Nam [illegible] approbat [illegible] [illegible] [illegible] nois [illegible] in c. admonere. xxxiij q. ij. [illegible] [illegible] habere mererus. Contrarium [illegible] [illegible] et moueor. Nam tunc licet percutere, ubi timetur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] not. in c. significasti el. ij. de homi. per d. Abb. Sed in casu [illegible] [illegible] [illegible] quia [illegible] Nicolaus spoliatus suis armis, [illegible] [illegible] [illegible] non habebat [illegible] representeret; quinimo [illegible]

[illegible] recatesiem. [illegible]

26\. [illegible]ficiumi est vna copusion[illegible] no moins agian [illegible]

Sed [illegible] admi[illegible] [illegible] ut [illegible]

[illegible] faco [illegible]

[illegible] partes [illegible] esse [illegible]

[illegible] modo [illegible]

C[illegible] in noris [illegible]

[illegible]

[illegible]

27\. [illegible] Circumcende [illegible] ad omm[illegible]

[illegible] medicinam [illegible] Sciant [illegible]

[illegible] acdui[illegible] ad [illegible]

[illegible] LAVS DEO

Et ita [illegible] consulo [illegible] Consilio Sancti[illegible]
Ioannis [illegible] de [illegible] doctor [illegible]
Canon[illegible] [illegible] predic[illegible] [illegible] meum [illegible]
[illegible] propria manu [illegible] et sigillo meo [illegible]
[illegible].

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] tormento [illegible] ex iudicis [illegible] probat

In infamia facti iuris effectus non consideratur.

Confessio extraiudicialis facta si concurrat cum alys indicijs probat.

Confessio facta extra iudicium [illegible] [illegible] probat

[illegible]

8. [illegible] facit [illegible] excedit [illegible]

[illegible]

10. [illegible] patitur non [illegible]

[illegible] cognoscitur.

[illegible] non punitur nisi [illegible] tenetur esse [illegible]

[illegible] procedit per subsequentia declaratur.

Breviarium, et similia sunt clericorum arma.

10. Beneficium propter officium [illegible] officium suum non exercet.

[illegible] clerici propter nimium excessum infamatur.

Confessio extraiudicialis prodest ad probationem innocentiae.

[illegible] repellere licet.

[illegible] lex approbat nomen, ergo et effectum nominis.

[illegible] percutere licet, qui timetur de [illegible] percussione quia tunc non alio modo defensio [illegible]

Defensio [illegible] est [illegible] violentia repelli non potest.

[illegible] vindicta non permittitur.

[illegible] est famae pati laesionem, quam in hominibus excedescere.

[illegible] ira compescere, ideo nimius agendum.

Tenor cosi

[illegible]

[illegible]

[illegible] ni in testificationem [illegible]

testis minor .XX. an. in causa crim. no pot testificari.

[illegible] debet [illegible]

Tenor cord

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] See [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Non est maior ... differentia ... quam ... vita hominis.

[illegible] ... maiori differentia ... corporalis vel honoris privatione ... [illegible]

[illegible]

[illegible]

Iniustius est impunitum ... quam innocentem condemnare.

[illegible] ... impunitum relinquere facinus ... [illegible]

[illegible] ... Congruit enim bono et equo ... [illegible]

... puniri malis hominibus ... Congruit ... [illegible]

[illegible]

... in maleficiis ... impunitum ... [illegible]

[illegible] ... bona fides ... [illegible]

Iudex ... impunitus ... reddet deo rationes.

ut tribuamus rationem ... [illegible]

... lib. vi ... [illegible]

[illegible] [illegible] [illegible]

fuerit [illegible] [illegible] [illegible] 30 [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] et [illegible]

[illegible] [illegible] [illegible] [illegible]

7\. [illegible] ... [illegible] [illegible] [illegible] [illegible]

[illegible] villa [illegible] ... [illegible] [illegible] [illegible]

8\. [illegible] ... in c. [illegible] [illegible] et [illegible] Sed in omnis [illegible]

[illegible] ... [illegible] [illegible] [illegible] [illegible] in l. 2. §. [illegible]

[illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] simplici [illegible] sz in [illegible]

9\. [illegible] ... [illegible] [illegible] [illegible] c. [illegible] [illegible] [illegible]

[illegible] ... [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] sz ubi [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] probat [illegible] [illegible]

[illegible] ... [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] c. [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] §. [illegible] [illegible] [illegible] §. [illegible] [illegible]

[illegible] sz ubi [illegible] [illegible] [illegible] [illegible] [illegible]

in c. 18. [illegible] in [illegible] [illegible] [illegible] [illegible]

[illegible] ... ff. de cibar. ... [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

... [illegible] ... sui ordini.

... [illegible] ... confessi sunt [illegible] ... inquisitionem criminum ... [illegible]

17 ... [illegible] ... bald. in l. ... [illegible]

... [illegible] ... se opponunt ... [illegible] ...

alio judiciario ordine, [illegible] ...

18 ... [illegible] ... confessus ... [illegible]

... capit. ... [illegible] ... criminis ... confessus ...

... [illegible] ...

... [illegible] ... possunt ... [illegible]

[illegible]

19 Respondeo ... [illegible] ... confessus ... [illegible] ...

... tormentorum ... [illegible] ...

... [illegible] ...

... [illegible] ...

[illegible] 477 [illegible]

[illegible]

[illegible] 24 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

alios [illegible]

[illegible]

[illegible]

[illegible] in [illegible]

[illegible]

[illegible].

C[illegible] ad [illegible] Martinus [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible] [illegible] consuetudo [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] minime [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] dominiis [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] committunt [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] de jurisdictione [illegible] [illegible] [illegible]

[illegible] [illegible] dominiis [illegible] ibi [illegible]

[illegible] in [illegible] ff. l. si commun[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] consulitur [illegible] bar. [illegible]

[illegible] bar. [illegible] rubrica [illegible]

[illegible] ff. si commun[illegible] ubi [illegible]

de rigore [illegible] bar. [illegible] bal. [illegible]

In pluribus [illegible] ops. bar. [illegible] In d. l. si commu-

nem [illegible] bar. [illegible] in suo [illegible]

[illegible] sequuntur [illegible] bar. [illegible]

[illegible] d. bar. [illegible] consulitur

[illegible] insignis doctor. [illegible] consuluisse [illegible]

[illegible] bar. [illegible] nominantur plures alios [illegible]

[illegible] sic [illegible] partes

[illegible] bar. consulitur [illegible]

[illegible]. In quo [illegible] bar. [illegible] d. l. si [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] in dubio [illegible] [illegible]

21. [illegible] Et [illegible] [illegible] [illegible]

[illegible]

[illegible]

[illegible] in [illegible] [illegible]

[illegible] [illegible] ad [illegible]

[illegible]

22. [illegible] [illegible] et [illegible] [illegible] [illegible]

[illegible] [illegible]

[illegible] [illegible] capitalem [illegible]

[illegible] [illegible] in [illegible]

[illegible] pro isto [illegible]

[illegible]

[illegible] expectans [illegible]

[illegible] erat ad fer[illegible] aliquando [illegible]

[illegible] ubi [illegible] fuit [illegible] et [illegible] ligno [illegible]

[illegible] vulneravit quo

[illegible] non pot [illegible] dicitur [illegible] potest dici [illegible] no [illegible]

[illegible] ad [illegible] decem [illegible]

[illegible] qui [illegible] [illegible]

[illegible] secca.

et gravius [illegible] locis [illegible] unde [illegible] non [illegible]

[illegible] a toto [illegible]

qualitate [illegible]

[illegible] Vide [illegible] tota non [illegible]

[illegible]

[illegible] non [illegible] amus [illegible]

[illegible]

[illegible] dicit [illegible]. Ha[illegible]

[illegible] haber[illegible] fundata [illegible]

[illegible] manu [illegible]

nemo [illegible]

[illegible] mulier [illegible]

[illegible]

[illegible]

[illegible] ex quo [illegible] negat [illegible] deinde ex [illegible] et [illegible]

[illegible] ut [illegible] verb. oblig. Sed videtur [illegible]

[illegible] ut patet [illegible]

[illegible] [illegible] verb. oblig. et [illegible]

[illegible] et dicit [illegible]

[illegible] corde suo [illegible] non pot probari ut dicit Ba. [illegible]

[illegible] verb. [illegible] et [illegible]

[illegible] non possit directe probari quia a solo deo cognoscitur [illegible]

cordium ut dicit glo. in l. ij. ff. de interrogat. actio. Sed indirecte pot probari

extrinseca ut dicit glo. in d. l. [illegible] C. de [illegible] probat ex verbis ut [illegible]

de [illegible] nepos [illegible] ff. de verb. [illegible] et [illegible]

[illegible] ut [illegible] significat [illegible]

in illo qui poterat penitere [illegible] et penituit [illegible] ligno [illegible]

[illegible] aliqui [illegible]

[illegible] uxoris q. Cypriani ad [illegible] Hier. [illegible]

[illegible]

[illegible] querelante devenit [illegible] pluries audivit [illegible] domo sua vicina domui [illegible]

Hier. dicente al dispetto [illegible] lo amazaro [illegible] eadem die qua fuit [illegible]

dictus Cyprianus [illegible] hora ante factum [illegible] Hier. [illegible] eadem [illegible]

[illegible]

[illegible] ut videtur sentire Bar. [illegible]

[illegible]

[illegible] et [illegible]

[illegible] quia dicit [illegible]

[illegible] nominavat [illegible]

[illegible] como gli facevi carez ut c ca[illegible]
[illegible]
[illegible] la. ... cuius desolino et combat [illegible]
[illegible]

ante comissum [illegible] testes de ... et Sebastiani Santorini [illegible]
zam [illegible] per [illegible] Simina verom udisse quella benda [illegible] la [illegible]
io vegio [illegible] a [illegible] guardando verso el q. Cypria [illegible]
[illegible]
[illegible] comissum ex proposito et deliberato [illegible]
est Imperator [illegible] ut dicit Bal. in l. [illegible] C. de no nume. pec. In prin. [illegible]
huius [illegible] impubes [illegible]
regatus Dni Antonii merule ut deponit testes recepti ad deffensam [illegible]
[illegible] ex absentia videri pot. [illegible] dictu[m] huius no[n] facit Iudiciu[m] ad torturam [illegible]
glo. In l. fi. C. de his qui ut indig. [illegible] Bar. In l. ij. §. qd observari [illegible] 2. co.
[illegible] eo [illegible] doc. In l. i. §. impuberi ff. ad sille. [illegible] Bar. In l. maritus
Non obstat si diceret q[uod] qn alii testes haberi no[n] pot. q[uod] Iudex debet admittere [illegible]
[illegible] videt[ur] sentire Io. Andr. In addi. spec. in tit. de teste. §. i. [illegible] excepi[illegible] q[uod] est [illegible]
[illegible] In l. ea quidem ff. de accusa. ubi concludu[n]t q[uod] qn alii testes haberi no[n] possunt admi[illegible]
minus Idonei ne delicta remaneant Impunita. Ad hoc [illegible] illud esse verum [illegible]
[illegible] alii testes haberi no[n] possunt. ut in casu l. consensu. C. de repu. Secus [illegible]
[illegible] alii potuissent occurrere [illegible] no[n] Interfuerint ut p[er] Abb. In c. tertio de
probatio. post [illegible] de [illegible]. sed iste testis deponit de verbis habitis in via publica [illegible]
potuissent occurrere alii testes, unde [illegible] dictum suum fuerit receptum, [illegible] ex quo appar[illegible]
[illegible] tortura no[n] potuit examinari. dico q[uod] et examinatus no[n] facit Inditium [illegible]
Bar. In l. maritus [illegible] In l. Imperator ff. de [illegible] Ang. in l. Inter [illegible]
[illegible] obiic. [illegible] Alex. eius cons. 127. Visa Inquisitione, q[uod] volu. 2. [illegible]
[illegible] ex depositione Sebastiani Santorini testis [illegible] querelantes [illegible]
[illegible] ver. [illegible] habuit dicere seu verba de quo in depositione [illegible]
[illegible] verum est q[uod] audiit una die dum Ragaciu[m] transeunte [illegible] Grazan[illegible]
[illegible] tamen q[uod] no[n] fuit habitus sermo de Cypriano nec [illegible]
suo sine Giuditio veritatis q[uod] protulisset dicta verba, ex quibus posset [illegible]
Cypriani [illegible] verorum, tamen ex quo [illegible] fuit sine [illegible]

[illegible]

[illegible] nominet [illegible]

[illegible] ad hoc ut [illegible]

[illegible]

[illegible] opposi[illegible] quia [illegible] solitus facere quotidie

illa hora ad fenestram [illegible] ut [illegible]

[illegible] signo [illegible] formare [illegible]

[illegible] qui [illegible] dici [illegible] annos [illegible]

non nominando [illegible] conare [illegible] 25 [illegible] nominando

[illegible] romanae [illegible]

[illegible]

[illegible] recernit [illegible]

[illegible] concludit [illegible]

[illegible] nominando [illegible]

[illegible] illa verba inferentia ad hoc non [illegible]

sup remotus ab imputatione facta [illegible] ingular[illegible]

[illegible] non facere [illegible] remotus a [illegible]

[illegible] ad tortura [illegible] dicit [illegible]

[illegible] admonend[illegible]

[illegible] videt deponere [illegible]

[illegible] casus [illegible] non [illegible] deberit [illegible] non potest [illegible]

[illegible] nihil [illegible]

[illegible] non [illegible]

[illegible] deponit [illegible]

[illegible] ergo contineat [illegible]

[illegible]

[illegible]

[illegible] nota. Non ergo sit aliquod indicium dicti huius testis qa ad hoc [illegible] iudicium exoritur q[uod] sit omni exceptione maior et integer [illegible] in l. testes [illegible] ut carnem. ff. de quest. et testi [illegible] [illegible] ticulo ut no. Bal. in tit. de pace Const. In v[erbo] Vasalli et [illegible] [illegible] q[uod] iste examinatus erat inimicus Hier. et ex pre [illegible] [illegible] dixit le haueste posuto amazar l'haueria amazaro [illegible] me covast. et ex minis de occidendo p[re]sumit odium capitale ut dicit [illegible] [illegible] no. Bal. [illegible] C. de mer. cau. et ex p[re]missis por [illegible] [illegible] testis habere maiorem affectionem et odium ad unam partem q[uam] ad aliam, et ipse non integer ut omni exceptione maior ut concludit Alex. eius consi. 196. In causa [illegible] [illegible] in v. vol. quamvis nec per p[re]sumi tale homicidium a Hier. [illegible] [illegible] de quibus in depositione Rogerij Dni Ant. ut p[atet] ut uider[etur] inferre [illegible] supradicti testis, quia an ex facto alicuius hominis aliquid p[re]sumit[ur] [illegible] qualitas facti et conditionis p[er]sonae capit coniectura ut l. [illegible] ff. de dona. [illegible] [illegible] de adio. et oblig. qa talis extimationis et famae [illegible] [illegible] l. non est. § a barbario. ff. de re milit. Sed in casu nostro clare p[ro]batum [illegible] constat ex processu formato ad querelam dci Hier. con[tra] Cyprianum p[ro] vulnere ei [illegible] facto, q[uod] Hier. est p[er]sona quieta et pacifica, non solita rixari, nec aliquid mali [illegible] ac bonae famae et opinionis unde p[er] eo p[re]sumendum est, q[uod] dato q[uod] [illegible] [illegible] tamen ut [illegible] executioni mitteret, qa p[re]sumptio bonae famae tollit [illegible] [illegible] ff. de his qui sunt sui vel alie. iur. et no. in l. divus. ff. de [illegible] [illegible] nec p[re]missis accedat depositio .2. 5. et 8. testis examinati ad [illegible] qui deponunt q[uod] Cyprianus postq[uam] vulneravit Hier[onymu]m sup[er] facto [illegible] [illegible] [illegible] [illegible] ante [illegible] [illegible] [illegible] [illegible] transitum faciebat ante domum dicti Hier. quae potuisset magis [illegible] absq[ue] eo q[uod] [illegible] [illegible] ab aliquo ut deponunt dicti testes. unde si [illegible]

[illegible]

[illegible]

[illegible] erat [illegible] causa [illegible]

a matre [illegible]

[illegible] ad orena [illegible] uideatur magis mortuus [illegible] ita [illegible]

interficiendi a. Cypriani [illegible] per [illegible]

Unde no est dicendu [illegible] fenestra [illegible] ut [illegible]

In a[illegible] ita que [illegible] modo [illegible]

[illegible]

[illegible] declarat et dicit [illegible]

[illegible] necessarius [illegible]

[illegible] q. Cypriani [illegible] Grazam [illegible]

[illegible] erat multu longinquus [illegible]

[illegible] latere [illegible]

[illegible] latere dextro [illegible]

[illegible] deponit [illegible]

reuertebatur uersus [illegible] deponit [illegible]

[illegible] deuet [illegible]

[illegible]

[illegible] erat [illegible]

[illegible]

[illegible] inimicus [illegible]

[illegible] erat [illegible] latere [illegible]

[illegible]

[illegible] a quo uocabat [illegible]

q. Cyprianus [illegible]

[illegible]

[illegible]

[illegible]

[illegible] ut [illegible]

[illegible] Sebastianus qui veniebat ... curru, qui audivit [illegible]

co dio no me dar Inpazzo, qui no audivit principium, sed quicquid sit ... videns

In verbis duorum testes sive concordes In effectu rei ... [illegible]

[illegible]

[illegible] circa medium ... testes ... quid ... [illegible]

[illegible] ... Iubemus [illegible]

[illegible] humana ... testes [illegible]

[illegible] ... extra ... can. ... [illegible]

[illegible] ... socy ... [illegible]

... prima est ~~[illegible]~~ ... Xoi ... est. ... cons. 299. ... prim. ... cons. 253. col.

pio ... In ... volu. ... Alex. cons. 150. ... volu. Item non dicuntur varij testes ...

plures alius deponit In facto ut In. d. cons. 26. ... cons. 94. ... col. ...

volu ... cons. 143. ... col. ... contrariat ... 171 ... [illegible]

[illegible] ... probare ... vocavit [illegible]

[illegible]

[illegible]

[illegible]

[illegible] motis [illegible]

[illegible]

erano attento [illegible] ut [illegible]

[illegible]

[illegible] nova [illegible]

[illegible] dumo [illegible] colorata [illegible] rex [illegible]

[illegible]

[illegible] erant

[illegible] de [illegible]

[illegible] erat [illegible]

[illegible]

[illegible] pazzo [illegible]

marittima per vender [illegible] quel [illegible]

[illegible] un pezzo [illegible] non [illegible] paura [illegible]

[illegible] non [illegible]

[illegible] prosequutus [illegible]

negotium [illegible] causa [illegible]

[illegible] declarat voluntate [illegible] ut rex [illegible]

[illegible] declarat [illegible]

[illegible]

[illegible] Et [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

man[illegible]

[illegible]

[illegible] uerbo [illegible]

[illegible] annos [illegible]

[illegible] non [illegible]

[illegible] uidere alio [illegible]

[illegible] nolunt [illegible]

[illegible] nullus [illegible]

[illegible] potuerat [illegible]

[illegible] habere [illegible]

[illegible] ubi [illegible]

[illegible]

[illegible]

[illegible] unde [illegible]

[illegible]

[illegible] non [illegible]

[illegible]

[illegible] animi [illegible]

[illegible]

... 135. ad primum

nita pos̄ eum adduci q bona fama moueri

... accumulat hypp. d. mar. in praci. crimi. col. 3. n. 7. cum pluri. ...

... quis no ...

... dic comito n°. 7. in fi. ...

occidendi amicitia inimicitia contra inver. A. occidente. 86. a. B. occi ...

testes examinatos ... q amicitia ... arguit

incu'lari ea attando. Roma ...

... ratione ... fi. de. co. ...

... ff. sted. ...

... dio. Romanus ...

... poat testes. ex quo equi ...

... bar. in l. diuus. ff. ad l. cor ...

... dicit ...

n ter. argu
lare vari

principali q. no debeat. A. punom pena ca. eis hoc pbari ex rationabili . . .
esse ex nervis p atir p q 3. con p seeru dicendo no oreti ande em
[illegible]

vih produitu q nono. iato mulierum juxta nemo q qui valde no
[illegible] et famul. p ar erat et [illegible] oner. n. pot poneretur
[illegible] ruelon q. liberto. ff. d adult. l. in quide. ff. [illegible]
[illegible]

[illegible] con. ge
nom plur de lnauit a [illegible]
[illegible]
que quelib; ad ira comoniser
[illegible]
dix. Roma sub. cu mulier. col. 32. v. adverras in ga et offensa. [illegible]
homicida occidi debeat in judex no ut occedere cu que calor
[illegible]
ad [illegible] ne et v no
quia difficilima e sive dolore reperare l. si adulterum cu [illegible]
ubi Ang. in ter. q si me p uocaui verbis q. te occido debeo
refert ub. sequitur Ang. d arim. In addi ad Ang. in §. verum com
aliquo dicto ut. supra. ub hoc et tenet Ro. in singul. 508. melle comoranq
[illegible]. qs in c. dilecti. col. vi. c excep. cu pfinitis simil. ibi p Fel. attaur
[illegible]
ca [illegible]
ipo eca ut pbar in d. §. imparatores ub in l. 1. §. fi. [illegible]
§. si in maritus. ff. ad silen. ub in l. gracchus. C. d adult. ub pul. Ang. d

in mi. [illegible] Corpo col. 29

[illegible] ad mi retterscone [illegible]

[illegible] XX [illegible] magm

[illegible]

[illegible]

[illegible] ... [illegible] Antonii facta et demum viso et diligenter examinato toto processu: Dico breviter quod clare constat dominum Beltrandum tam in certa oppositione sive exceptione que inserta est in processu ad cartas 9. ibi. Item negatur per ipsum dominum Beltrandum: quam in responsione facta ad petitionem et in aliis responsionibus factis in fine capitulorum / protulisse verba sapientia detractionem [illegible] contra dominum Christophorum videlicet quod non esset de [illegible]
Ex quibus verbis contumeliosis et diffamatoriis nata fuit actio [illegible] quam ipse dominus Christoforus contra dictum dominum Beltrandum agere et experiri potuit [illegible] provocando dicta verba. Nam iniuria altero ex tribus modis [illegible] re in manuum iniectione ut. ff. de iniu. in l. prima § iniuriam: verbis cum convicium fiat absque manuum iniectione / sicut in casu nostro: ut in dicta l. prima § [illegible] et in c. cum olim de [illegible] et [illegible] ut [illegible] [illegible] ut capitulum quis scribit vel edit: ut ff. de iniu. l. item apud Labeonem § ait praetor. et § q. j. in c. quidam maligni. Potuit itaque ipse dominus Christoforus talia verba et talem diffamationem ad iniuriam provocare: et taliter provocando contra dictum dominum Beltrandum ad iniuriam suam ad eius extimationem agere: ut in praedictis iuribus: et in l. sed et quicumque § iniuriam ff. ad le. [illegible] et in c. [illegible] de iniu. Quequidem actio non solum pro magna sed etiam pro levi datur iniuria: licet aliter et aliter puniatur ut in c. cum [illegible] de son. et re iudi. et [illegible] in prin. Cum ergo per dictum dominum Beltrandum prolata sint verba iniuriosa et diffamatoria contra dictum dominum Christoforum [illegible] venit condempnandus ut no. in dicta l. apud Labeonem § [illegible] et § qui turpibus ff. de iniu. Sed videndum est an ipse dominus Beltrandus [illegible] protestatione / Dum [illegible] non [illegible] defendendi iure suo [illegible] oppositionem [illegible] de iniu. Videtur [illegible] verba protulit excipiendo [illegible]
Et certe dico ipsum non iuvari tali protestatione / Cum non constet quod hoc per se quod talem fecerit exceptionem ad finem repellendi adversarium [illegible]
Quoniam non constat quod inter ipsos tunc ageretur [illegible] questio [illegible] narrat in quadam [illegible] in causa inter [illegible] tunc vertente allegabat bona de quibus contendebatur esse allodialia. Et [illegible]

[illegible]

... istam naturam esse extinctam ...

... Dico p[re]terea est ... actio ... heredes nec ipsa ...
honorem ... iniuriatum ... non ... ex le.
... in ... satisfactio ... est ... iniurians aut iniuriatus mor
... litis contestationem. Secus si post contestationem litem mors sequitur ut ibi

CHRISTI ERGO VERI ET ETERNI DEI NOMINE REPETITO concludendo ex superioribus dico et consulo quod dictus d. Bertrandus conventus et successive heredes sui seu preclarus doctor d. Herasmus actor prefatus tenent actione iniuriarum et condempnari debent per sp. d. capitaneum et suum exegium ac p[re]latum iudicium ad satisfaciendum et emendandum iniuriam ipsi d. Xforo et fratribus quia con- dempnatio facta ... per ... iudicium taxabit et arbitrabitur dicta iniuria habendo respectum ad qualitatem personarum iniuriatarum que sunt Nobiles ... et ad ... personam que ... facta et ad qualitatem iniurie ex qua iniuriarum actio crescit et decrescit et ad locum ubi ipsa iniuria irrogata fuit ... ea que ... in c. ... de ... cum ... ct in c. ... de calumpn. et per Jo. an. in c. cum illorum de sen. ... de pe ... et in c. ... de calump. et per Jo. an. in c. cum illorum de sen. exco. et inst. de iniu. § pena ... quam et pictores. et hec ma[xi]me atten- ... talis circumstantie sunt specificate in libello De quibus per Bar. in l. ... ff. de ... et per D ... flo in c. ... de pro ... que ... fuit dubitatum et sequendo potius equitatem quam rigorem ... per hanc sententiam Restituat honor ... d. Xforo et fratribus et inherendo doctrine glo. in dicto c. ... ex le. ... et predicti Xforus ... quia ... iniu. procedere in hunc modum ... debent ... ipsi d. Xforo si nollet ... in suo libello contentas sibi dictas iniurias per ipsum d. Beltrandum fuisse illatas et si iurabit ... maxime respectu ad tenuem facultatem dictorum pupillorum filiorum et heredum ipsius d. Beltrandi ... ad ipsos pupillos arbitrabitur iudex sive iudicium ... taxabit ac limitabit dictam iniuriam in libras Centum ... ad quas condempnari ... ipsos heredes seu predictum D. Herasmum dicto actorio nomine ipsi d. Xforo et fratribus pro emenda et satisfactione iniurie ... ipse d. Xphorus iurabit ... taxet iudicium et limitet ... dicta summa ... dummodo non excedant ... centum ... debet ... iniuriam ... extimatio ... iniu. ... in ... si non ... c. c. ... Condempnationes ... dicti heredes sive D. Herasmus

[illegible] ligamentum [illegible]

DEO

[illegible] ANTONIVS DE [illegible] manu [illegible]

[illegible]

[illegible] Sub Anno nativitatis dni [illegible]

[illegible]

[illegible]

+

Consilium in causa [illegible]
[illegible] inter [illegible] xpophorum
[illegible]
de vercellis ex alia: sortitum
in sententiam eiusdem [illegible]

Producitur hoc consilium solum
ut M.ta V. videat et intelligat
mature formas quatuor [illegible]
secundum [illegible] consili
que sunt maximi roboris quoad
actorem litis illorum [illegible]
[illegible] que generalis est

[illegible]

[illegible]

[illegible] in [illegible]

[illegible] tangari [illegible]

[illegible] et [illegible] antonius

[illegible] advocati magni

[illegible] est [illegible]

consultore qui dixit [illegible] antonius est [illegible]

[illegible]

[illegible] marem [illegible]

[illegible]

[illegible] Jacobum deinde fuit declaratum

apparuerit consilium paratum [illegible]

[illegible]

[illegible]

[illegible] petitione sua exponit et narrat
[illegible] magr petrus
[illegible] apud concordia, cum [illegible]
[illegible] causa precedente [illegible] latere ipsius magri petri [illegible]
[illegible] pro dicti sancti stephani [illegible]

[illegible] furem atque latronem [illegible] vocavit. et [illegible] fuera
[illegible] certa [illegible] bovina in [illegible] ex [illegible] asserit [illegible] que
[illegible] antonii [illegible]
[illegible] ad vendendum [illegible] et sic in [illegible] querela declarando
exponit [illegible] tantas iniuria [illegible] jacobo [illegible] et dicta petri
[illegible] sibi [illegible] quia iniuria [illegible] existimare dicit
et suo iuramento affirmat, ut latius in processu colligitur. Et maxime cum
idem Jacobus non solum sit [illegible] pdictum petrum diffamasse [illegible]
ab inceptis nolle desistere [illegible] cum omni [illegible]
probare eundem petrum esse furem ut in 3 et 5 positione [illegible] Jacobi
ibi [illegible] declarat se obtulit [illegible] [illegible] paretque in. vii. positione
ipsius Jacobi quod eundem magrm petrum posita. Quo casu sic premisso visa
et [illegible] intellectis [illegible] omnibus et singulis iuribus et attesta
tionibus pro parte quacumque productis. et quicquid dicere et allegare
voluerunt [illegible] toto processu [illegible] inutili disputacione
veniens ad preti decisionem breviter est. Et primo numquid dicta
querella legitime [illegible] iudicio capitaneatus magri terre
[illegible] sit [illegible] domicilium et continua [illegible]
in pdicta terra [illegible] et diffamacio atque iniuria pdicta [illegible]
eius iurisdictionem [illegible] commissa sit. Istam [illegible] tractemus
ut veritas elucescat. et primo dicendum est quod delinquens pot puniri
in loco domicilii ut [illegible] de delicto alibi commisso a iudice [illegible]
offense ut [illegible] constat ff de captivis l. non dubium in [illegible]
[illegible] Federicus de Senis [illegible] ff de incendio ruina naufragio. l. nequid. §. de

iā et ibi nō p glo. et in. l. j. c. ubi de crimine [illegible]

[illegible]

[illegible] a[illegible] accusatore et patet in
verses ff. de officio pfis et ibi bal. bar. & dy. in. l. j
ff. de accusationibus. Quantum ad 2ᵐ [illegible]
q idem petrus eß fure ydem deberet p[illegible] secundum forma juris
& cū non sit fur. nec probatum fuerit fecisse: idem Jacobus non
debet excusari cū dicat q causa corrigendi dicta verba dixerit.
l. si non convicij. c. de iniurijs. Nam tanto atrox iniuria
extimatur quanto plus in crimen fecit. Cui maior iniuria pot inferri
q appellare ipm petrum [illegible] in loco publico fidelem magistrum bonum
diffamare suo bono nomine et fama. Et circa hoc [illegible] cicero
l° 3° officiorum circa principium Detrahere igitur alteri aliquid et
hominem [illegible] incomodo sui comodum augere; magis est [illegible] natura
q mors q dolor q cetera que possunt aut corpori accidere aut
rebus externis. Et n. amicus debet amicum in secreto et non in pu°
corrigere unde notatur in euangelio si frater tuus peccaverit, inter
te et ipm corrige. Qua quidem ratione manifeste colligitur
ipm Jacobum maliciose et animo iniquo constituerat honorem
et bona fama [illegible] petri detrahere. Et malicijs [illegible] pri
[illegible] hominum non parcendum est. Ut est tex. cū glo. in. c. p°
de alienatione judicij mutandi cā facti et in. c. plerumque de
rescriptis et in. c. significante qui matri. accu. pos. Iniuria. n.
dicitur omne quod non iure fit. et contumelia que contem-
nendo dicta est. Institutum de iniurijs in prin° et ff. eo.
l. p° et ff. ad. l. aquiliam. l. sed et si quemcumque §. iniuria [illegible]
[illegible] tit. quilibet honorem suum tueri debet: & omni lucro
preferre ff. de [illegible] obmissa in testamenti. l. julianus: et [illegible] in. l.
p° c. [illegible] et [illegible] de iniurijs l. iniuriarum § si quis
de honore. Q[illegible] iniuria [illegible]
[illegible] iniuriam
[illegible] est in. l. iniuriarum. ff. de iniurijs in glo. Institutum de iniurijs
§. pena. et. l. conquerebatur. c. [illegible] Lodouicus de roma
in prima. q. iiij. §. notandum et xxxij. q. vij. flagitia. et. c.
quemadmodum et ibi clarissimus dns ~~Antonius~~ de [illegible]. Et quia
clarum est q [illegible] magister ~~[illegible]~~ Jacobus non probavit dicta [illegible]

[illegible]

Cum [illegible] igitur [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
pronunciando sententiando et [illegible] [illegible] [illegible] [illegible]
et infamia [illegible] [illegible] magis etiam [illegible] contra [illegible] [illegible]
[illegible] [illegible] esse bone et legittime [illegible] [illegible] [illegible] [illegible]
obstantibus exceptionibus supradicti iacobi [illegible] [illegible] [illegible] [illegible]
[illegible] nec probatum [illegible] fecisse. Nam tanto [illegible] [illegible] [illegible]
existimatur quanto plus crimen [illegible] [illegible] maior [illegible] potest [illegible]
[illegible] [illegible] [illegible] bonum [illegible] defamare [illegible] [illegible] loco [illegible]
appellare contra caritatem et legem evangelicam Que est [illegible]
fratre tuus peccaverit inter te [illegible] [illegible] [illegible] [illegible]. Et salu-
stius in [illegible] catellinario [illegible] [illegible] mortales [illegible] [illegible]
[illegible]. Multi [illegible] [illegible] [illegible] nunc [illegible]. Et quilibet
honorem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. Quoniam melius
est nomen bonum quam [illegible] multe. Et [illegible] [illegible] [illegible] fama
bona existimatur ut [illegible] [illegible] ad [illegible] et. ff. si quis omissa
ca testa [illegible] [illegible] [illegible] [illegible] [illegible] C. [illegible] [illegible]
[illegible] ff. [illegible] L. [illegible] § si quis de bono [illegible] et [illegible]
[illegible] li. 10. Stat [illegible] [illegible] [illegible] [illegible] [illegible] tempus [illegible]
[illegible] fama [illegible] [illegible] [illegible] ut [illegible] [illegible] epistola ad [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] qui habeat [illegible] [illegible]
[illegible] Sed quia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
est [illegible] [illegible] [illegible] [illegible] a quinquaginta annis
[illegible] [illegible] magno [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] ...

[illegible] ...

... [illegible] ...

Et ita ut supra ... [illegible]

... Petri ... [illegible]

... fidem ... [illegible]

Quo quidem consilio lecto ... [illegible] ... declaratum ... [illegible] ... [illegible] ... [illegible]

... admonitus ... [illegible] ... [illegible]

[illegible]

[illegible] fedas [illegible]

[illegible] ab [illegible] heredis [illegible] nisi [illegible]

[illegible] prima legatum non [illegible] queres [illegible]

[illegible] ex quoniam [illegible]

[illegible] causa non [illegible]

per possessionis questionem [illegible]

In ult. col. si contradicens [illegible]

illius constitutionis ut puta [illegible] ratione [illegible]

post mortis revocatur possessio [illegible]

agetis non sit revocatio sed [illegible] adiudicari [illegible] contra

et ordinarium, et sm [illegible] declarantes [illegible]

scriptio prius Gattarensis [illegible] apparuerit contradictor qua [illegible]

gendum est [illegible] contradictore legatarius [illegible]

q legatarius sit contradi[ctor] legati [illegible]

mundi que voluit lega[re] [illegible] debet [illegible]

Immediate sequentes [illegible] clarissime [illegible]

tione [illegible] contradictore in [illegible] legi [illegible]

[illegible] l. non ad [illegible]

legati diffinitione [illegible] l. lega[illegible]

natum fuisse q legatum [illegible] heredibus [illegible]

[illegible] ut [illegible] possit adire [illegible]

que de Iure [illegible] non [illegible]

In l. nemo per [illegible] habere [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

differri nisi non heredis et [illegible]

doctrina Ang. de verbis o qua [illegible]

[illegible]

[illegible] [illegible] [illegible] [illegible]

quia pendente instantia In petitorio super dicto que veri similiter potuit pduci

et [illegible] obstaret exceptio [illegible] contrarium [illegible]

[illegible] [illegible] opponi dicta exceptio [illegible]

[illegible] non [illegible] herede [illegible] appellan[illegible]

[illegible] q exceptio possit incontinenti pbare ex hoc Inferro q qm iste curator

[illegible] adeptus [illegible] petere non potest retardari p [illegible]

[illegible] Incontinenti pbare [illegible] dato q pbaret [illegible] p ea sna ferret

[illegible] appellan [illegible] Interim iste curator [illegible] certum e [illegible]

[illegible] qd non e dicendum [illegible] quia [illegible]

[illegible] relicta [illegible] solemni volutare [illegible]

[illegible] ipso Jure nulla [illegible]

nullis, qd pbat, certi Juris est [illegible] volutate [illegible]

qd in sano mo Intelligendum est dictum .s. ultima volutas [illegible]

[illegible] legittima [illegible] .l. si Jure. ff. d lega. iij. ultima aut [illegible]

[illegible] ga non solemnis d. l. si iure ff [illegible]

ga non constat legittime d ipa. ut puta si In volutate [illegible]

toria [illegible] tali mo non possint apponi q revocari non possint [illegible]

[illegible] non constet revocatio non valet Ita late p Bar [illegible]

In principio testi. ff. d lega. ij. In .l. si mihi et tibi. § [illegible]

[illegible] dico q [illegible] codicilli pducti per dnm Zelisabett [illegible]

clausula derogatoria d qua In testo, dum voluit testis [illegible]

[illegible] p alia quacumq dispositione nisi expresse et speciffice [illegible]

[illegible] item [illegible]

[illegible]

[illegible] ut ne [illegible]

[illegible] Inst. [illegible]

[illegible] revocare illa [illegible]

[illegible] codicillando [illegible]

[illegible]

[illegible] codicillando non [illegible] exequutus [illegible] quod [illegible]

[illegible] in d. [illegible] testi [illegible]

posset [illegible] in codicillis [illegible] non [illegible]

per ista verba adiecta here [illegible] voluntate

minus solemni revocari non possunt quia codicillis hereditas dari non potest [illegible]

l. [illegible] preferunt [illegible] testatore ne [illegible] expresserit de revocatione

sed etiam de ipsius infirmatione que fieret per ista legata nec hoc videatur novum quia

In voluntate solemni [illegible] revocari per minus solemnem Jur. n. non habet [illegible] revo-

cationibus quod patet quia imo [illegible] in voluntate minus solemni [illegible]

ut [illegible] testibus inter [illegible] quod [illegible] potest coram [illegible] revocari tamen non potest nisi

coram solemni [illegible] testium aut. hoc inter liberos C. de testa. et multis mediis posset

istud comprobari que [illegible] ex [illegible] tantis verbis

derogatorijs testi. non potuisse in codicillis eius vires infirmari quia non esset facta revo-

catio secundum mentem testatoris qui voluit non valere subsequentem dispositionem nisi primam

in totum revocaverit, In his autem Codicillis licet aliquid immutaverit [illegible] legata non tamen

[illegible] in totum testamentum revocatum per supradicta et [illegible] hec tollunt omnia contraria que

[illegible] petentes [illegible] fundamentum aliquod super verbis [illegible] codicil-

lis [illegible] videtur [illegible] uxore [illegible] quia data et validitate dictorum

codicillorum non posset dicta d. helisabetta petere se poni in possessione dictorum bonorum quia

institutio [illegible] re certa non [illegible] nisi quando esset alius coheres [illegible] quotiens

C. de here. Insti. l. [illegible] ex fundo [illegible] et ita [illegible] vocata domina

[illegible] verbis et que ibi not. [illegible] et hoc dico procederet quando institutio

facta esset in testo. [illegible] aut facta esset [illegible] codicillis ut supponunt [illegible] nullo

modo procedit quia ut dictum est codicillis [illegible] adimi potest hereditas [illegible] l.

Scevola ff. ad treb. In casu autem nostro quando d. helisab. in testo. esset [illegible] in re certa

... posset petere ... ab alio quam ab herede ... [illegible]
... Bar. in d. l. fi. C. de edic. divi ...
... curatore conservandi ... in possessione ... [illegible]
... [illegible] ... dicto ... [illegible]
[illegible]
qui ... sequitur ... magis ... [illegible]
... adquisitione ... ab intestato ... [illegible]
... fuerit ... [illegible]
... [illegible] ...
... [illegible] ...
... [illegible] ... non ... [illegible]
... [illegible] ... nemine contradictore existente ...
... [illegible] ... determinat ... mittendis ... [illegible]
non est bona adequatio de uno casu ad aliud ... remanet ...
... heredis ... scriptis ... sint usque ad ... cognitionem super peritorio ...
sunt conservari ... curator petit ...
... declarari ... Laus Deo.

... [illegible] ...

In mat. possess. adit. extens.

In mat. test. legati. et codicil.

[illegible]

[illegible] p [illegible]

[illegible]

pate [illegible] publi[illegible]

[illegible] bone

et venerabilis memorie [illegible] in [illegible]stam [illegible]

[illegible]

[illegible] Testam[illegible]

[illegible]

[illegible]

[illegible]

[illegible] De [illegible]

[illegible] me notar[illegible] publicum

[illegible]

[illegible] in ordine not[illegible]

[illegible]

[illegible] redire.

In xpi noie [illegible]

[illegible]

[illegible] pro[illegible] rem non dicitur universalis de aliqua
[illegible] pro[illegible] [illegible] de quota parte bonorum non debeatur
[illegible] [illegible] [illegible] ff de offi[cio] test.
pap. §. quarta. Ex quo sequuntur plura. Primo quod dominus B. hector non
tenetur ad debita hereditaria ad que tenebatur dominus Cristianus quia legitima
filiis debet [illegible] supersit deductis dictis debitis et si nichil
supersit legitima [illegible] debetur. Item sequitur secundo [illegible]
sit heredes [illegible] et tenetur ad dicta debita [illegible]
ductio [illegible] dominus B. Ector [illegible] legitimis quia nescit quanta
sit ut ei debeat legitima quousque dicta ductio sit facta. Item tercio
sequitur quod dominus B. Ector non debet [illegible] legitimam
occupare [illegible] parte a filiis que debent [illegible]
computari [illegible] ut sciatur quantum [illegible]
quia de [illegible] [illegible] .C. [illegible]
partes debet. l. y. li. xo. Item quarto sequitur quod dominus B. Ector non
tenetur ad legata postquam non succedit nisi in legitima quia legitima
e[x] ponor [illegible] minuitur legata ut [illegible] debeat ut
es alienum et legata non. Primo sine onere legatorum debetur. l. quoniam
in prioribus. C. de inoffi. test. Debetur igitur legitima etiam de quantitatibus
legatis et ea minuit. quia non potuerunt fieri in preiudicium legitime

[illegible] quanto [illegible]

[illegible]

p instituit [illegible]
post illos [illegible]
[illegible] nerum/ [illegible] no [illegible] [illegible] fuit
eius potestate plus [illegible] non [illegible] imputa[illegible] si no
[illegible] po[illegible] potuit. l. [illegible]
[illegible] ut indignus. [illegible] tit[illegible] in fine. [illegible] fuit
primo loco [illegible] pro hereditate [illegible] potuit
[illegible] si noluisset [illegible] noluit [illegible] imputandu[illegible] [illegible] noluit sic debet
intelligi [illegible] in agnatus [illegible] filius [illegible] statuto
[illegible] non [illegible] feudo nono [illegible]
[illegible] incipit [illegible] simpli[illegible] [illegible] sine [illegible]
[illegible] no [illegible] Emphiteosi [illegible]
[illegible] filius [illegible] verbo heredibus [illegible]
titul[illegible] agnat[illegible] filius [illegible] locum [illegible] filii possent [illegible] feudum
[illegible] hereditate [illegible] ut [illegible]
[illegible] no [illegible] speculum [illegible] de feudis [illegible]
[illegible] etiam [illegible] locum habet ille titul[illegible] [illegible] no [illegible] differentia
inter filium et agnatum. ut colli[illegible] [illegible] no. p. Jo. an. [illegible] addi[illegible]
[illegible] agnat[illegible] [illegible] filius [illegible] et colli[illegible] no p [illegible]
ut [illegible] si lib[illegible] [illegible]
[illegible] sive simpliciter. tali. [illegible] quo [illegible] etiam liberi. ut [illegible]
[illegible] penult. [illegible] sive tali et liberis eius et heredibus/ sive tali et liberis eius
absque illo verbo heredibus/ locum habet ille titul[illegible]. an agnatus ut filius/ et de capita

[illegible]

... Ita ut superscriptum est ... dico et consulo ...
Jacominus de Lanzello doctor legum ...
me subscripsi cum propria manu scripsi
et sigillo consueto sigillavi

R[illegible] de [illegible] ualebat
[illegible] fatz [illegible]
[illegible] ff. de iniusto testa. l. [illegible] s.
[illegible] et post [illegible] §
[illegible] postumi [illegible] restitui
[illegible] dare §
[illegible] testato [illegible]
§ testator [illegible] cum non [illegible]
[illegible] quod non [illegible]
[illegible] testam [illegible] omnes [illegible]
[illegible] ff.
[illegible] in ceat
[illegible]
primus locus / quod est insorcedus [illegible] fuit; testi-
us qui non fuit factum [illegible] ut primus locus tempore mortis est
ff. de iniusto testa. si quis, [illegible]
postumos. §. si filius [illegible] patri [illegible] ad [illegible] §
ad quem delata fuit hereditas directo quod ad dictos filios [illegible] iniusto
restat ut modo dicti filii vigore clausule codicillaris tenerentur restituere
hereditatem per fideicommissum prefato Iohanni herede instituto, quoniam vigore dicta clausula
non solum operatur in legatis et fideicommissis pendentibus / sed et in hiis que directo
relicta ut commutat eas in fideicommissum et totum testamentum commutat in vim codicillorum
ff. de testa. l. ex ea scriptura §. fi. et ibi notatur ~~de testa.~~ de testa. milit.
l. querebatur circa medium ubi probatur expresse secundum bar. Et tamen in hac questione
doctores distinguunt quod testamentum rumpitur natiuitate postumi / quia aut testator
fuit usus uerbo presentis temporis puta si non ualet ut testamentum et cetera et tunc dicta
clausula uel operatur / et probatur quod quando non est presens quod [illegible] de primo. l. cum ad presens. ff.
si certa petatur [illegible] testamentum [illegible] quod primo ut [illegible] dixi §. [illegible]
[illegible] ff. de iniusto test. Aut fuit usus uerbo futuri temporis puta
si non [illegible] tunc dicta clausula operatur [illegible] per natiuitatem postumi
[illegible] quod si non ualebit [illegible] ut [illegible] ff. de iure codicill. et ibi
per bar. in vj q. Sed in casu nostro [illegible] fuit testator uerbo temporis presentis perfecto
quia dixit si non posset ualere iure testamenti et cetera quod [illegible] possit includit futurum
tempus [illegible] ubi [illegible] tractum in futurum l. si ita [illegible] ff. de leg. ii
et non per bar. in l. si ita de [illegible] ff. de iure codi-
[illegible] temporis [illegible] perfecti ut et ibi non [illegible] §. [illegible]
ff. de [illegible] Et sic secundum istas opiniones dicta prefata clausula codicillaris debet
operari effectum suum in casu nostro secundum bar. in dicta l. [illegible] in vj q. de iure codic.
[illegible] ista distinctio [illegible] hoc casu quo testator de postumis cogitauit
seu [illegible] ut quia sciebat uxorem pregnantem si uero non cogitauit uxorem
[illegible] pregnantem / nunc [illegible] clausulas [illegible] operatur quia [illegible] si cogitasset testator
habituram [illegible] quod tales clausulas non apposuisset [illegible] l. [illegible] C. de reuocanda
donatione [illegible] ff. de iure codicill.
l. [illegible] alias [illegible] per eum / et secundum istas opiniones bar. dicta clausula in casu nostro non operatur

Id. uero in l. si. C. de iur. codi. in q. pe. dr q. ista opi. distinctio quas hac sibi appar. fu[illegible] originali. d. [illegible] et q. non ren[illegible] [illegible] in usu reqm [illegible] in [illegible]
renset in qne cogitasse de oi rupto. ac et q sierer [illegible] natiuitate [illegible]
dari alias iuspini q. ille [illegible] h. a pn posito aut initus ex parte [illegible]
q nam uult cogitasse de isto casu qualit q. sptr. l. equit n. dimi. ff. [illegible]
pred spe [illegible]
i. allegatur p Bar. z recip indistincte q. si testor fuit uisa ule fuis

Opinio eius ut [illegible]

ul. [illegible] hac uu fuis ut [illegible] ul [illegible]
testi p natiuitatis postum. sine sciuit se habiturus [illegible]
[illegible] ista opi. [illegible] no pot [illegible]
[illegible] ut qa habebat uxore sterilem q. pla monia e. ul q sterar p longu tps q filios
no seder pla [illegible]
[illegible] preden [illegible] [illegible] e parte [illegible]
[illegible] ffi d [illegible] [illegible] aut ura dl. grassis ref. sen ista cessat z no
ass. q. dispositio no pot dici q n [illegible] filios in qne q. [illegible] qoui i [illegible] ut [illegible]
L. cum [illegible] in [illegible] p. ce dicta istas opi. q. cum testor post nati postumos
huit tps mutadi test. z no mutau z [illegible] et siqua [illegible] post q. no cogitasset ul de [illegible]
[illegible] uera sit opi. bal. q. dicit cla opere [illegible] tr censet uolu [illegible] cu ead testo et
cu dicta cla p ut qd no [illegible] glo. in l. ubilere. ff. dat. i [illegible] ff. d execu. tu in glo. mag. et
bar in l. tractabatur ff. d testa. mili seu ei. in frauder. ff. si cui. l. se [illegible] Az. no huit
no huit tps mutadi test. z [illegible] sit ita opi ba. limitado cas [illegible] dispo. [illegible]
d spatium aut no [illegible] C. d i offi. testa. [illegible] i cau uo huit tps mutadi [illegible]
p ples anos p. nato [illegible] filios [illegible] dicta cla [illegible] in qua uitas et i bonu
et equa roe fudatn [illegible] discordates opi. ad concordias [illegible] potest fieri [illegible]
Az. l. i C. d in offi. don. [illegible] C. [illegible] cus expediat de elect. li vj C. d fur. ap. tan
/ Illud superest uide q. restitu debeat [illegible] dei cle [illegible] Johis instituto, z q tus porint [illegible]
fily retinere bona [illegible] q restitued erat dia [illegible] hereditas q [illegible]
retinenda erat in a [illegible] vita q [illegible] plegitima dictos filios [illegible] nouissias C. [illegible]
[illegible] trebellianica [illegible] erat retinend. [illegible] filios semp fuit [illegible]
in [illegible] ul [illegible] post delatas heditate dictis filiis [illegible] fuit [illegible]
statut [illegible] no [illegible] opi [illegible] in usu [illegible] raynuti [illegible] testa
no detrahitur [illegible] legitima q hodie dicitur [illegible] filiis [illegible] nouissia [illegible]
[illegible] C. ad l. fal. ff. d in offi te. l [illegible] Et ista [illegible]
detrahenda [illegible] transmissibile [illegible] filiy ad heds eos ut e dicta aucta q [illegible]
ab intestato [illegible] ul [illegible] filii [illegible] Johaes institut [illegible]
post natuiuitate filios et sic p. [illegible] filiis [illegible] restituti transfertur [illegible]
[illegible] heditas [illegible] no transmiter [illegible] adhitas [illegible] C. d iur. delib. [illegible]
uicta l. cogi. [illegible] seu d [illegible] z l. postulasti ad trebel. [illegible] p [illegible] filio
[illegible] in ultima [illegible] Et ex his [illegible] plena [illegible] ad primu [illegible]
[illegible] opinio [illegible] dictas cla ul p aut ex [illegible] Bar. adhibitur [illegible] distinctio [illegible]
[illegible] ut [illegible] no in dicta [illegible] de iur. codic. et [illegible] aut ex ca [illegible] file [illegible]
testa. Michi [illegible] [illegible] sup [illegible] in fedeicom [illegible] vniuersali Et [illegible]

[illegible] 1533 [illegible]

egit [illegible] viis [illegible] legata relinquet [illegible]
[illegible] heredes [illegible] heredes [illegible]
[illegible] pertinere [illegible] [illegible] regatus [illegible]
[illegible] abstentione [illegible]
decederet [illegible] eius [illegible] rogatus [illegible]
[illegible] decederet [illegible] nepotes a Merulo [illegible]
[illegible] parentes [illegible] eodem [illegible] legatum [illegible]
[illegible] Merulo [illegible] quibus [illegible] abbreviationis [illegible]
[illegible] ut [illegible] daret [illegible]
[illegible] legatarius [illegible] tres
oriuntur difficultates quarum prima [illegible] est. An [illegible] ex [illegible] sine
liberis moriatur illi Merulo filii sororis [illegible] pariter succedant in [illegible]
[illegible]. An [illegible] nativitate filiorum relictorum post mortem [illegible] [illegible]
fideicommissum ita quod illi a Merulo non [illegible] amplius [illegible]
[illegible] an dominus Bernardinus legatarius teneat [illegible]
nomine [illegible] ipsis filiis non arbitrio suo sed arbitrio boni viri. Circa primam
difficultatem aliter non [illegible] quia ex verbis testatoris clare [illegible] nepotes a
Merulo non esse substitutos [illegible] aliis filiis testatoris [illegible]
[illegible] heredes mei [illegible] ubi rogatus
restituere filiis et nepotibus [illegible]
restituere [illegible]. Circa 2am difficultatem [illegible] fideicommissum durare [illegible]
in persona filiorum non autem in persona [illegible] hoc [illegible] l. [illegible] Severina
[illegible] fideicommisso dato [illegible] cod. [illegible] l. [illegible] lega. [illegible]
ubi si [illegible] fideicommissum [illegible] sine liberis decesserit [illegible] moriatur [illegible]
relicto filio [illegible] fideicommissum [illegible] filio [illegible] facit [illegible]
[illegible] facit [illegible] non [illegible] a testatore vocari neque
substitui sed potius ab intestato succedunt facit glo. [illegible]
[illegible] quia dicunt [illegible] l. [illegible] lega. [illegible]
[illegible] Alex. [illegible] ex facto [illegible]
[illegible] Soc. [illegible] cod. [illegible] Modernis [illegible]
[illegible] tenet [illegible] 42 [illegible] augustinus [illegible]
[illegible] Raven [illegible] Ray [illegible]

[illegible] ... terminat ... ēē ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... Pau. ... [illegible]

[illegible] ... [illegible]

313 ... [illegible]

... lectiones ... [illegible]

[illegible] ... [illegible]

... col. 56. Bal. in l. ab eo ... [illegible] ... ista prececit

... quo relictum est fideicomissum ... conditione si sine descendentibus decederet

instrumento ... arbitror quum ex illis nullo moriente aliis ...

... fideicomissum in plena ... filiorum ... videntur ... terminata & alia quibus in principio ... a me ... Donatio facta a D. Beltramina filia & herede testatoris illis a ... quantum ad ... legitima ... donantur bona, que post mortem suam erant ... sororum superstitum tanquam bona ... fideicomisso ... parte filiarum dicti testatoris, unde dubium non est quod ea que a marito ... ab aliqua sorore fuit vendita vel alias quocunque modo alienata id ... per ab aliis sororibus viventibus post mortem ipsius Domine Beltramine ... venditricis ... arbitror, absque ... restitutione ... a marito sororis vel a sorore ... nullius sit valoris ... fideicomissi ... ut est tex. in ... in l. fi. §. sin autem. C. com. de lega. ...

... Quantum vero pertinet videre ad 3.am difficultatem ... arbitror huiuscemodi conditionem in arbitrio legatarii collatam ... redigendam esse, & pro hac opinione facit tex. in l. ... §. sed cum ita. ff. de leg. ... legatum relinquitur ... arbitrio alterius, arbitrium ... viri boni arbitrio ... ut quantitas legati terminetur boni viri arbitrio secundum qualitatem ... tex. in simili l. hec conditio in prin. ff. de contrah. emp. ubi ... pretio conditione apposita ut arbitrio meo redderet ... non ut meo arbitrio, sed arbitrio boni viri ... [illegible] ... arbitratore ... [illegible]

& alii ... [illegible] ... [illegible]

... [illegible] ... determinaverit ... magna ...

ulie ex . unge et leatter uri et requirat conueniet ce uicet ut iste sup in
statuis alia morte repeat e ueritas in tatoris clementia e licat unus uolumas
... meruerda et ... quod sit prin. (e nec . ergo . ... nec lex . n . S .
... aut ... C . eqa . acco qd dicebat Bal . q ... testatoris equi et aute
n ... ueniat ... ceterum ... Dey . n . ...
... et demor ... uber ... merito ... est re ao
... ... uerbo appellata n tali
... ... testatore ... ...
merito dequi et ... ... rigore ... sua ...

Et ita sententia ... ... Ego hier . ampo Sti petri ... utr . Doc .
patauinus in florentissimo totius orbis gymnasio patauino ... ...
norum in ... loco leges ... ... emp ... et ... ...
me subscripsi ac solito sigillo meo ...

In eande sententiam concurrit et Marcus de mantua Bonamicus cognomento patauinus doc
et in celeberrimo totius orbis gymnasio ... pris , ...
in ult° dubio nonnihil difficultatis facerent prima facie uerum ... eius co...
onerando sed tn qa dicta D. Bnardina nihil ... haud ... conueniens est
fraudari ex quo constat et certum est testatorem uoluisse eide ex ... ...
... dari et ita ... ... Ex.m ... D hier ... ...
clusum est sup. dicit . saluo tn semp ... Laus Deo

Et ... qd supra conclusum e ... Ego Paulus ... ut v. Doc patauinus
... implici subscripsi ... ... dubio ... difficultas ...
Bnardina debeat aliqd dare ... ... restituit ... nihil obstet,
Sed difficultas e circa quantitatem dandam esse . quo casu testator onerauit ... ...
Bnardina ... hoc habet ... ... glo . ...
... glo . ... onerauimus ... ... patro . ubi ... ...
... supplicari posset ... ... p Ang ... ... in glo magna ...
... Dico tn eu ... debeat ... ...
cognoscere poterit an exequutor ... ... Bnardina ~~...~~ exerit ... ...
... bom ... regulatam ... normata ... ... Doc ...
... multa referentur ... ...
... magni ualoris ... ...
... amori ... Laus Deo

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ... in etate [illegible] ... inspecta ac [illegible]

[illegible] ... celebrata ... anno 134[illegible] ... bona [illegible] ... M. D. Comiti ... possint alienari ... exbursatores precii emptoribus ipsorum bonorum, ut cum ipsis exbursatoribus ... aliqua reponere emptoribus predictis M. D. Comitis bona ipsa alienata revocare [illegible]

3 Queritur an Mag.ca D.na Caterina uxor q. M. D. Antonii vigore eius testamenti debeat habere dimidiam omnium ususfructuum bonorum q. sui mariti ultra pallatii et mobilium possessionem, an vero M. D. Comes Nic. heres q. dimidia debeat habere aliquid ad reconversionem ususfructus dicti pallatii et mobilium ut dimidiam ipsius pallatii et mobilium.

4 Queritur si prefata D.na Caterina transiret ad secunda vota amittat ususfructum hereditatis predicte pro eo percepto et maxime illos qui erunt iudicati arbitrio boni viri fuisse perceptos ultra victum filiarum eius quas tenet alere ex forma testamenti, et videatur clausula dicti testamenti incipiens: Et casu quo dicte filie.

5 Queritur an ipse M. D. Co. Nic. heres q. fratris teneretur in casu quo D.na Caterina transiret ad secunda vota restituere integram dotem promissam q. M. D. Comiti fratri, aut solum dotem solutam, et videatur clausula incipiens Et casu quo vellet transire ad secunda vota.

6 Queritur ad bona stabilia posita in Jacetha [illegible] puntili et Brugnarie que in comitatus quae non apparet emptionem fuisse ab aliquibus p. q. M. D. Comites puntili et Brugnarie censeantur sint bona feudalia ut videtur [illegible] investituris et quibus in instrumento anni 1457 et maxime investitura anni 1396.

Item an bona feudalia modo aliquo possint alienari et quomodo [illegible] antiquum, rectum, nobile, et legale, et habet iurisdictionem merum et mixtum imperium [illegible] non potest vendi nec alienari [illegible]

[illegible] potuit relinquere eius uxori M. D. [illegible] subiecta fideicommisso etc.

Dico q. no. [illegible] nocatur

[illegible] potuerit relinquere [illegible] etc.

[illegible] que [illegible] ann. amonart.

Querit an ille M. D. Comes [illegible] potuit [illegible] dotes [illegible] grauare bona feudalia, et bona subiecta fideicommisso [illegible] ita q. dotes [illegible] bonis [illegible] tract. 4.

Licet no. [illegible] max. const. tit. 1346. q. quã hre debet [illegible] in p. pacta et Instrum. testi Co. federici [illegible] fideicommissorum [illegible]

Querit an M. D. Comes N. heres q. M. D. Arrici q. dñi eius fris pot et [illegible] aduertat tempore ut q. no obstante constitutione prius sub rub. de heredibus Inuentarium possit adire et acceptare hereditatem q. dicti q. M. D. Co. Arrici cum [illegible] Inuentarii etc. Et aduertat q. no. e. [illegible] in mobilib ita q. non sit [illegible] nullum potuit defraudare creditorem [illegible] alqd. mobile [illegible] sint In esse etc.

Credo q. deberet restitui cum [illegible] no. pos. [illegible] permiserit, [illegible] quid pdicto [illegible] bona libera etc.

Et ita sentio ego Iac. bonifacius [illegible] v. dor. saluo semp sanctiori et meliori Iudicio etc.

Rsiones dni Alouysij Noualer ad capita suprascripta

Ad primum no puto q. p. illa verba de gradu In gradum sit Inductum fideicommissum [illegible] [illegible] a Testatore no ut eueniente casu substitutionis bona transeant In gradum sed eueniente casu mortis Bernardini dicti gradus qui reperitur ab Arrico [illegible] [illegible] quo casu ipso bona transeunt libera et sine onere fideicommissi [illegible] etc.

Ad 2m bona oia comprensa In [illegible] anno 1346 [illegible] fideicommisso et [illegible] In calce ipius [illegible] fideicommissum et p. testes [illegible] plurium agnatorum pot constitui, et si aliqua ex ipis bonis [illegible] alienata [illegible] ipius [illegible] vocati [illegible] [illegible] q. recuparatio et Iudicatio fieri pot nullo [illegible]

no moee notez dubitadi cu verba [illegible] D. Artici sunt clara q[uod] Dna Joana debeat [illegible] [illegible] [illegible] paladum & mora in illa [illegible] cu herede [illegible] in tali articulus e clarus q[uod] ipa e libera a rone et coputo reddendo, et Itm e clarus q[uod] [illegible] morie usufructus acreicit Dne Joane dumo viduata vivat, et si transiret ad secunda vota [illegible] [illegible] [illegible] [illegible] verba [illegible] [illegible] de ponere possit; Ite qa Testator In casu quo transiret ad 2a vota [illegible] usufructus preptir [illegible] [illegible] quo ante ad restitutione dotis fienda p herede casu quo Dna Joanna transiret ad 2a vota [illegible] [illegible] ad illa pte qua ipe Testator habuisset et recepisset no aut ad tota dote [illegible] [illegible] Testator [illegible] [illegible] [illegible] agerere [illegible] [illegible] Juris Civilis & municipalis, de Jure aut maritus no tenet restituere nisi qu[od] exegerit ergo &c. de Jure Venet seus eet qa acceptata promissione nisi alr expresse sibi caveat maritus tenet ad restitutione Integrale lz no exegerit.

Et viso Instrumento Investiture seu renovationis anni 1457 [illegible] alie [illegible] [illegible] Teneo q[uod] oia bona stabilia Jacentia In opidis [illegible] & Brugnarum et eor comitatuu que [illegible] [illegible] spali titulo acquisita q[uod] censeat et habeat p bonis feudalibus et copreensis In [illegible] Investiturie et ita Judicatum fuit In cosilio Ex.mo de XL.ta In causa feudoru familie de [illegible] de Sacilo cu fisco Venet. et In casu Mag.corum Comitu de Gambara du ageret causa Inter ipos Comites In possessorio, cuis adhuc In meritis no fuit Imposita suprema manus &c.

Q[uo] ne aut ad Illud an bona feudalia aliquo mo possint alienari Teneo q[uod] oio, sit p[ro]hibita alienatio feudi antiqui et Jurisdictionalis p ut e feudu de quo agit &c.

An aut D. Co. potuerit relinquere Dne Joanne Uxori usufructu bonoru, ubicu[m]q[ue] fideicomisso Teneo q[uod] no, qa In bonis fideicomissariis Dns Comes erat ipe vivens usufructuarius qui extinguitur cu p[er]sona et successoribus Integru transmittit, et minus de usufructu bonoru feudaliu potuit disponere eade rone &c.

An aut dotando filias de Co. Articus potuerit gravare bona feudalia, dico q[uod] no, nisi extaret tot melioramenta que verisimilr et cognte possent portare onus ipm, qa In tali casu [illegible] sentire, bona aut fideicomissaria possunt eminui et p dote costituenda, et istud e clari Juris et hoc est In p[re]iudiciu succedentiu In ipis bonis, no tn In fideicomissis transversalibus &c.

Ultimo an Co. Hier. tanq[uam] heres Co. Artici debeat restitui adversus lapsu tepois no obstante costitutione priu, Teneo q[uod] possit et debeat restitui no obstante lapsu tepois et ita semp vidi practicari qn maxi no e Inmiscuit In mobilibus, pecuniis, noibus debitoru p ut dicit In casu [illegible] In quo oia Integra sunt &c.

[illegible] Juris ac equitatis [illegible] Ego Aloysius Noalis Doct. requisitus de oia [illegible]

[illegible] [illegible] [illegible] manu p[ro]pria [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible] patrio [illegible]

[illegible] instituta

[illegible]

[illegible] ut [illegible]

[illegible] vel [illegible]

[illegible] vel [illegible] Iustiane [illegible]

[illegible]

[illegible] vel [illegible]

[illegible] ubi est [illegible] no [illegible]

[illegible] emitet

[illegible] ut [illegible]

[illegible]

[illegible]

[illegible] ab [illegible] [illegible]
[illegible] ut [illegible]
[illegible]
[illegible] beretur item [illegible]
[illegible]
[illegible]
[illegible] ut in [illegible]
[illegible]
ritate [illegible]
[illegible]
[illegible]
[illegible] tractat [illegible]
quarta pars [illegible]
[illegible]
[illegible] ponere [illegible]

[illegible] a quo co-
recupent, [illegible] haec [illegible] [illegible] [illegible] Faciat eum
modum habe[illegible] [illegible] volt, [illegible] [illegible] [illegible] Faciat eum
[illegible] [illegible] acceptare ut
[illegible] ut [illegible] agnat[illegible] ut filii C. i [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] Et si filii [illegible] acquisita
[illegible] feudorum [illegible] plen[illegible] [illegible] de feudis
[illegible] hereditatis [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] acceptare, nec ob [illegible] institutus
[illegible] [illegible] [illegible] illa habe[illegible] [illegible] feuda ut no
Bal. [illegible] alias in [illegible] C. 2. [illegible] agnatus ut filii in
[illegible] quod illud hic est verum, quia non fuit in
[illegible] [illegible] sic non fuit [illegible] potate plus
habe[illegible] [illegible] est [illegible] sibi [illegible], si non fecit id
quod facere non pot. nec unquam potuit l. [illegible] cum ubi non
C. de [illegible] [illegible] ut [illegible] ff [illegible] exa[illegible] [illegible] l. [illegible] [illegible]
[illegible] fuit primo loco institutus [illegible] [illegible] [illegible] pre
[illegible] Et sic eam potuit habe[illegible] si voluisset. Si voluit
[illegible] sibi [illegible] est quod voluit, sic [illegible] [illegible]
quod no Bal. in [illegible] C. i. [illegible] agnatus ut filii, de instituto
[illegible] [illegible] [illegible] [illegible] non solum in feudo novo, sed
etiam in antiquo seu paterno. [illegible] [illegible] recepit pro

plus diligit eo plus debet pinnari licet pertate non posset [illegible] eo.

Et ita vidi tractatum magistri paulo de castro utriusque iuris doctoris et ad fidem me [illegible] et sigillavi

Hic subscripsit [illegible] paulus de [illegible] doctor iuris utriusque [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] trebell [illegible]

[illegible] sine desideranti[illegible] § cum aut. C.
de hered. [illegible] de fideicommiss. ad l. Cum donationem. C. de fideicommiss.
[illegible] ff. de cond. et demo. l. Et ideo quia [illegible] fideicommiss[illegible]
[illegible] omnes [illegible] C. de inoffi. testo. et [illegible]
l. [illegible] § cum [illegible] ff. de vulga. et pupilla. [illegible] de [illegible]
[illegible] fideicommiss[illegible] [illegible] legitima de qua omne [illegible]
per legem debetur l. quoniam in prioribus C. de inoffi. testo. Et de
ista legitima quilibet [illegible] pro libito disponere ut in [illegible] l. quoniam
[illegible] l. [illegible] C. de [illegible] mandato
[illegible] mandata [illegible] pot de trebellianica [illegible]
libere disponere pro libito suo. Ex quo legitime [illegible]
[illegible] trebellianica post [illegible] [illegible] bene
[illegible] alio [illegible] [illegible] [illegible] pap.
[illegible] inoffi. testo. [illegible]
[illegible] de [illegible]
[illegible] [illegible] detractione
trebellianice [illegible] detractione [illegible] contra [illegible]
[illegible] C. ad l. falcid. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

ro et ut no [illegible]

[illegible]

[illegible] ib. [illegible]

[illegible] dispone [illegible]

[illegible] libe disp[illegible] sit filii plane [illegible]

[illegible] ex quo [illegible] ille [illegible]

[illegible] ex quo [illegible]

testator [illegible] fraude est [illegible]

[illegible]

[illegible] de [illegible] lib[illegible]

[illegible] filios [illegible] legitima [illegible] debetur

[illegible] aliud [illegible] constitum [illegible] aut [illegible]

[illegible] aut [illegible]

[illegible] legitima debetur

[illegible] natura [illegible] possunt [illegible] aliquo [illegible]

[illegible] voluntate [illegible] libera [illegible]

[illegible] legitima [illegible] aliquo [illegible]

[illegible] aliud [illegible] legitima

[illegible] possunt [illegible]

[illegible] legitima [illegible]

[illegible] testator mandaret [illegible] modico [illegible]

[illegible] aut [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] pro [illegible] b dere [illegible]

[illegible]

[illegible] transmittitur ad ei heredes [illegible]

[illegible] valeant et possint [illegible]

dictam simonem [illegible] suum [illegible] potest, ut [illegible]

[illegible] ff. sin autem aliquid [illegible]

[illegible] tollendis / conditione cum [illegible]

[illegible] / tunc legatum redditur purum ex post facto, ut

[illegible] legatum ff. de regulis iuris. et l. [illegible] ff.

de verbo. sign. [illegible] fideicommissi sunt facte

[illegible] filii inobedientis [illegible] C. de his que penas relinquuntur

Et [illegible] per dictum testatorem applicant dicte domine [illegible]

dicte domine [illegible] per [illegible] [illegible]

[illegible] dictus simon [illegible] non [illegible]

[illegible] dictum fideicommissum [illegible] / et [illegible]

[illegible] legatum [illegible] dictis [illegible]

eandem inobedientiam filii inobedientis [illegible] quo [illegible]

C. de fideicommissis [illegible] per leg. i. l.

[illegible] C. de his [illegible] relinquent [illegible]

[illegible] hereditatem, ut fideicommissum

[illegible]

[illegible]

Et [illegible] questi sepius [illegible]
[illegible] [illegible]
post [illegible] [illegible] famoso
studio [illegible] manu [illegible]
[illegible] sigillo [illegible] laus deo

[illegible] testi [illegible] in suo testo prohibens filios [illegible]
[illegible] etate 28 annos [illegible]
[illegible] posset testari [illegible] prudencia [illegible]
[illegible] in [illegible]
et sunt alie questi in [illegible] testi quas vide.

[illegible] o fien [illegible]

[illegible] quibus imminet [illegible]

[illegible] dez duos dicti [illegible] constitutio [illegible]

[illegible] detrahi dotem matris [illegible] Iacobi [illegible] uel aliud [illegible]

[illegible] ff. de [illegible] l. fi. §. [illegible] z §. si quis autem [illegible] fic

[illegible] Iacobi [illegible]. Nam [illegible]

[illegible] eos de [illegible] fuit [illegible]

[illegible] facta in diuersa oratione [illegible]

[illegible] non soluite non [illegible]

[illegible] l. triplex ff. de [illegible] z l. re iuncti ff. de l. ij. z ibi [illegible]

[illegible] repetitis [illegible]

[illegible] de Castello [illegible] non fiat [illegible]

[illegible] mortis Iacobi [illegible] nulli superessent [illegible]

[illegible] sub conditione C. de cadu. tol. z idez de substitutione facta [illegible]

[illegible] filij [illegible]. Restat [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

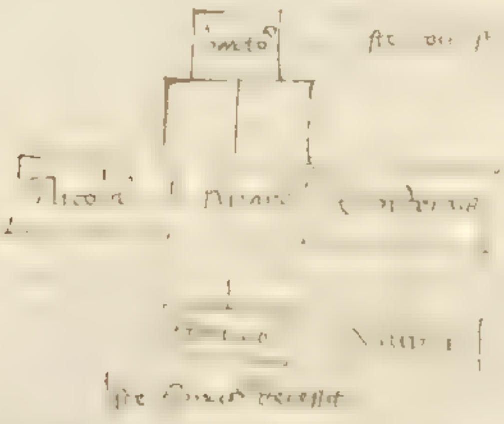
[illegible]

fecit [illegible]

[illegible] capto [illegible]

[illegible] dominos [illegible] posti [illegible]

[illegible] defuncti ad successionem [illegible]



De fr[illegible]

[illegible]

[illegible]

το

[illegible]

[illegible] Judi. [illegible]
[illegible] dicitur [illegible] quando Judex dicitur absolutoria [illegible]
[illegible]
[illegible] ad iudicis [illegible] cum absoluat uel condemnat [illegible]
[illegible] Judicis [illegible]
[illegible] oppo[illegible]
[illegible] in iudicio [illegible]
[illegible]
[illegible]
[illegible] interlocutoria [illegible]
[illegible] principaliter [illegible]
[illegible] iudicio [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] Bertrandus [illegible]
[illegible] Roch[illegible] [illegible] partes ad [illegible]
[illegible] Judicio [illegible] Intimationis [illegible]
[illegible] competentis [illegible]
[illegible] maior est oppositio [illegible] [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] talis est [illegible] ex [illegible]
[illegible] ut [illegible]
[illegible] nulla posset opponi nullitas [illegible]
[illegible] nullitas quae ex facie ipsius [illegible]
[illegible]

[illegible]

... in, respondetur ... [illegible]

... fundus. ff. Co. dini. [illegible]

... [illegible] ... quat. q. d. accu. Ex hemil. [illegible]

[illegible]

... post. c. d. gni. ... [illegible] ... ad ...

[illegible] ... iud. ... [illegible]

... pul. ... [illegible]

[illegible] ... ad iudicis ... [illegible]

... petitio ... illa ... alternatiua ... [illegible]

[illegible]

... ad ... d. xb. oblig. ... ibi ... [illegible]

... uidetur ... [illegible]

... ad iudicis compromisso uoluit per alternatiuam ... [illegible]

... Iudex iudicare ... uel ... uel absoluere ... [illegible]

dixi ... Compromissum. Et sic non uideo ... [illegible]

... quod ... [illegible]

remittendo ... Caius non ... [illegible]

cui adiunguntur, ut pul. dixit Io. andr. ... [illegible]

... nunc uidendum ... [illegible]

... non. ... [illegible]

[illegible]

... doctores ... accusatur illum ... [illegible] ... coll. ...

... [illegible] ... remittendo ... [illegible]

[illegible]

... dicas absoluimus, Remittendo partem ... [illegible]

... absolutoria ... [illegible] ... absoluimus ... [illegible]

... [illegible]

remittimus partem absoluendo ... [illegible]

... remittimus ... [illegible]

[illegible]

[illegible] error [illegible] propter [illegible]
[illegible] non voluit [illegible] exponi [illegible]

[illegible] inviolatio [illegible]
[illegible] omisit aliis distinctionibus [illegible]
[illegible] iustam [illegible] solvendo [illegible]
[illegible] non habet [illegible]
[illegible] Consuluit [illegible]
[illegible] dubio [illegible] dubio [illegible]
[illegible] ostendatur [illegible]
[illegible] procuratorio [illegible]
[illegible] autentica [illegible]
dubium [illegible]

jn macr appell. sup [illegible] tione solue

[illegible] no [illegible] appo[illegible] [illegible]

[illegible] tantum uno [illegible]

[illegible] tantum [illegible] [illegible] tantum [illegible]

[illegible] in [illegible] [illegible]

[illegible] no [illegible] [illegible]

[illegible] valet [illegible]

[illegible] ut [illegible]

Imperator [illegible] off. Nag. cor. [illegible] dico q valet lre [illegible]

[illegible] tacita veritate [illegible] ex. pre. [illegible]

legis et [illegible] no [illegible] valet [illegible]

[illegible] unde talia rescripta [illegible] non meret exonem

[illegible] rescripta [illegible] preci. Imp. offer. ubi dicit [illegible] rescripta [illegible] contra

jus ab omnibus [illegible] debet [illegible] rex [illegible] vendicant [illegible]

[illegible] rex. [illegible] [illegible]

cognoscere [illegible] cognitio [illegible] ut [illegible] pub. [illegible] q [illegible]

[illegible] sntia; [illegible] continet exonem et potuit [illegible] ut [illegible] Aub [illegible]

[illegible] in pe col. [illegible] judex non dabit exonem; sed [illegible] ut p

[illegible] ibi [illegible] q M. V. est mera executrix [illegible] no pot ad

mittere [illegible] exceptiones ad [illegible] exonem [illegible] qua [illegible]

q [illegible] qui committit [illegible] post sntiam, q talis executor [illegible]

[illegible] pro [illegible] ubi [illegible] exones

[illegible] q qui est [illegible] executor [illegible] ut [illegible]

[illegible] executor pot cognoscere [illegible]

[illegible] que respiciunt [illegible] exonem [illegible] modum exequendi [illegible]

[illegible] in [illegible] judex [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] et officiatum [illegible] [illegible]

omnia [illegible] nullus [illegible]

offm qa ab anno 1529 no [illegible] et [illegible] &

[illegible] [illegible] qa [illegible]

potestas q possit alium eligere [illegible] qua [illegible] executor pe[illegible] avocare

ut e glo. in d. l. si no cognitio. et in d. c. pastoralis. no [illegible]

exceptione. sed ut supersedeat executioni et remittat ad superiorem. in coclusi[one]

de cetero p illum rex. et ide voluit Bar. in d. l. a divo pio. [illegible]

In dicis litteris de exequendo sententiam se refert ad formam constitutionis [illegible]

ut sententiam ipsam exequatur in oibus iuxta forma constitutionis. pricipalis [illegible]

[illegible] nil comittit. [illegible] ultra q continet in ipsa constitutio ad q[illegible]

[illegible] qd continet in scriptura ad qua fit relatio intelligit expressum in [illegible]

veto. l. Institutio talis. de codicill. Insti. et. asse toto. ff. de here. insti. [illegible]

m. v. aliquo modo alterare subaudire tu[illegible] excederet constitutionem loquentem

[illegible] concedenda [illegible] litteris [illegible] dicit q exequatur sententiam in oibus [illegible]

constitutionis [illegible] que verba importa[illegible] ut dca constitutio [illegible]

litteram ut iacet et habetur clare in decreto ducali emanato de anno [illegible]

no servet ad litteram ut iacet et pbat ex no. p Bal. in l. [illegible]

ubi voluit [illegible] statutum dispones q statuta servet [illegible]

hic locum extensio de uno casu ad aliud, qa de littera [illegible] dicit [illegible]

no qd. ob intellectu pcipit. l. i. ff. de his q in testa. dele[illegible] [illegible]

in Tab. testa. extra. et concludit Alex. cons. [illegible] incip. [illegible] in [illegible]

Auditores rescribendo et comittendo executionem sententie in oibus iuxta [illegible]

[illegible] respectu ad ipsam constitutionem et litteram prout iacet. no aut[em] [illegible] alio[illegible]

[illegible]

[illegible]

[illegible]

In causa inter maria de [illegible] dicitur [illegible] actio
et super federe matrimonij et quidem de mandato [illegible]
vel [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] est videlicet an eius [illegible] [illegible] vel
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
in [illegible] [illegible] ex parte [illegible] quidem a
[illegible] capitularia [illegible] [illegible] vel [illegible] [illegible] [illegible]
[illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible]
et [illegible] declarationem [illegible] [illegible] [illegible] causa [illegible]
[illegible] est causa [illegible] [illegible] [illegible] [illegible]
[illegible] dicit [illegible] [illegible] in [illegible] et [illegible]
[illegible] [illegible] [illegible] Bar. Card. [illegible]
[illegible] et [illegible] [illegible] et est causa [illegible]
[illegible] causa criminali [illegible] in c. [illegible]
[illegible] et [illegible] glo. in l. iii ff. [illegible] de [illegible]
[illegible] Bar. [illegible] data paritate inter [illegible]
[illegible] et criminalem sicut in criminali [illegible]
esse luce meridiana clariores l. [illegible] C. de [illegible]
[illegible] causa matrimoniali ubi enim [illegible] [illegible]
[illegible] [illegible] l. illud [illegible] [illegible] [illegible]
[illegible] et l. [illegible] [illegible] ff. [illegible] [illegible]
Tertio [illegible] in causis arduis non [illegible] iuramentum in [illegible]
[illegible] ut communiter per Doc. in l. admonendi [illegible]
cum causa matrimonialis sit causa ardua [illegible]
[illegible] iuramentum [illegible] [illegible]
l. admonendi et in c. [illegible] [illegible]
cxxxiii [illegible] [illegible] [illegible]
[illegible] cxliii [illegible] [illegible] [illegible]
[illegible] est vel id quem sequitur Doc. in [illegible] [illegible]
[illegible] diligenter [illegible] ii [illegible] Abb. in c. [illegible]
[illegible] [illegible] ut [illegible] [illegible] [illegible]
[illegible] et causa [illegible] [illegible] non [illegible]

his ergo premissis dico et concludo ex parte predicti [illegible]
[illegible] non esse plene [illegible] legitimum probatum [illegible]
[illegible] [illegible] [illegible] [illegible]
et l. [illegible] [illegible] [illegible] [illegible] l. [illegible]
[redacted] sed in casu nostro nichil est probatum [illegible]
contracti matrimonii nec ex lectura [illegible] [illegible]
[illegible] [illegible] si duo venirent ad faciendum [illegible]
dicit ergo [illegible] [illegible]. cui [illegible] [illegible]
sed in presenti processu nullus est qui deponat [illegible]
con[illegible] ad contrahendum matrimonium [illegible] [illegible]
[illegible] per verba [illegible] c. [illegible] [illegible]
nunc [illegible] tamen non [illegible] nisi [illegible] quedam [illegible]
tiom D. Angeli, cui depositioni nulla est adhibenda fides
et [illegible] [illegible] deponeret super contractu adhuc [illegible]
[illegible] probatum [illegible] [illegible] D. Angela [illegible]
[illegible] [illegible] ei [illegible] in precedenti die, [illegible]
[illegible] accipiendi in virum et uxorem, nam verba [illegible]
et [illegible] matrimonium [illegible] ex parte [illegible] [illegible]
[illegible] [illegible] [illegible] de [illegible] [illegible]
[illegible] [illegible] absente parte que nullam fidem facit l. [illegible]
[illegible] [illegible]. ff. de [illegible] [illegible] in c. si cautio de
[illegible] et est [illegible] falsa nam dicit [illegible] [illegible] de [illegible]
celebrata in die [illegible] marie magdalene et [illegible] [illegible]
[illegible] dixit in capitulis de [illegible] [illegible] [illegible]
[illegible] in principio augusti [illegible] [illegible] ante vel [illegible]
ex alio etiam convincitur falsa nam in [illegible]
capitulo dixit audivisse [illegible] mariam [illegible]
[illegible] in virginem et [illegible], et tamen ex depositionibus testium
[illegible] partis guidonis [illegible] [illegible] maria [illegible]
[illegible] [illegible] [illegible] [illegible], et peperisse filium [illegible]
D. catherina testis que [illegible] [illegible] [illegible] [illegible] in fine [illegible]
[illegible] et in hoc convincitur de falso, et testis in uno [illegible]
[illegible] in omnibus falsus [illegible] in c. [illegible] in [illegible] in [illegible]
[illegible] [illegible] [illegible] l. [illegible] in iiii opp. C. de [illegible] [illegible]
[illegible] xliiii in ii [illegible] [illegible] [illegible] [illegible] in iiii [illegible]

[illegible] ii cor. et est inimica [illegible] [illegible] cum dominica [illegible]
et testi inimico non creditur c. cbrarime § si [illegible] ff. de test. et am
ita dicte marie, nam vult expendere pro maria in hac causa
cuius dote [illegible] ex [illegible] dominici et § catharine [illegible]
[illegible] et testi [illegible] amicis [illegible] adhiberi fides l. testium
[illegible] ff. eodem, et est patrona marie cui [illegible] [illegible] fami
liares et domestici [illegible] examinari prohibentur l. testes ff.
eodem, ita etiam [illegible] domini pro familiaribus contrariorum [illegible]
eadem est ratio c. cum [illegible] ff. de [illegible]. deponit ex
tra articulos et testis deponens extra articulos dicitur depone
re non iuratus l. si duo patroni § iulianus ff. de iureiur. et
ibi Bar. et A. [illegible] liberatus § fina. ff. de [illegible] [illegible] et
c. de testibus extra de test. et de test. cogen. c. preterea et c.
licet de probat. Minus probat Michael quia deposuit de aud
itu alieno, et testi deponenti de auditu alieno non est adhi
benda fides de suo enim proprio [illegible] deponere debet et non
de alieno l. testium C. de test. et ibi Bar. et Bal. [illegible] Bar.
in tractatu testimoniorum in ii col. in uer. testis dixit aliqua
uera esse quia audiuit dici [illegible] [illegible] [illegible] [illegible] et [illegible]
mens iuribus supra deductis et etiam deposuit de confessione [illegible]
[illegible], et dubie deposuit dixit enim eam accepisse seu [illegible]
[illegible] uxore, uel ancilla, et testis debet deponere de re certa
et non de dubia quia [illegible] dubitat non creditur [illegible] [illegible] in
dubitans et ignorans equiparantur l. fina. C. de condi. inse. [illegible]
[illegible]. in titu. de teste § [illegible] uer. item [illegible] testis titubauit [illegible]
etiam facit quod si testis deposuerit per uerbum credere [illegible]
probat, quia est uerbum dubitatiuum, glos. in l. ii § idem labe
[illegible] cum [illegible] in uer. audierit et ibi Bar. ff. de aqua et plu.
ar. glo. in § si uero absente in uer. uidisse in in aut. de [illegible]
et falci. glo. et Doc. in c. quoniam de test. [illegible] [illegible] [illegible]
stes dicunt se pro certo credere, adhuc non probant [illegible] et in c.
tertio loco in uer. testes deponunt se pro certo credere de [illegible].
Neque ullam fidem habent [illegible] [illegible], et [illegible] quia
deponunt de confessione [illegible] [illegible] et [illegible] [illegible] non [illegible]
[illegible] [illegible] [illegible] ancilla, uel uxore, et [illegible] deponunt [illegible] [illegible]
hec fuisse in [illegible] [illegible] et [illegible] gabriela marie [illegible]
[illegible] matrimonium contractum in [illegible] [illegible] et [illegible] [illegible]
de mendacio et de falso, et [illegible] in [illegible] [illegible] [illegible]

[illegible] iuris [illegible] vera [illegible] et sunt varii [illegible] contra
nam [illegible] [illegible] [illegible] in [illegible] ad [illegible] [illegible]
[illegible] angela [illegible] [illegible] iniuria [illegible] et [illegible]
[illegible] [illegible] nihil de hoc dicit sed aliter [illegible] et [illegible]
[illegible] unde in [illegible] [illegible] nulla est [illegible] [illegible] [illegible]
[illegible] ne test. [illegible] non probat [illegible] de [illegible]
[illegible] [illegible] et de [illegible] [illegible] absque [illegible] et [illegible]
[illegible] [illegible] [illegible] [illegible] hoc [illegible] [illegible] tamen [illegible]
[illegible] iam [illegible] [illegible] [illegible] [illegible] et [illegible]
ex quibus apparet [illegible] [illegible] [illegible] [illegible] [illegible] probatum
[illegible] ex [illegible] [illegible] dicto et [illegible] [illegible] facta [illegible]
[illegible] [illegible] per quam [illegible] devenire ad absolutionem a [illegible]
dicta [illegible] [illegible] [illegible] [illegible] [illegible] non fuerit [illegible] [illegible] [illegible]
probatum [illegible] [illegible] debet absolui actore [illegible] non [illegible]
reus absolvit [illegible] qui accusare [illegible] de [illegible] et [illegible] magis
ex depositione testium examinatorum parte [illegible] [illegible]
[illegible] mariae contractum prius matrimonium cum [illegible]
[illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] admonendi et [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] probatum fuerit et [illegible] [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] qui accusare [illegible] [illegible] [illegible] [illegible] et [illegible] [illegible]
[illegible] admonendi. Ex quibus dicto et [illegible] [illegible]
[illegible] et [illegible] in [illegible] et declarando [illegible] [illegible]
absoluendum a [illegible] [illegible] dicta maria [illegible] [illegible] [illegible]
[illegible] Laus deo [illegible]

[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

[illegible]

nam. ac rerū

ecclesiasticarū atq;

beneficiorū.

uidē in quin:

[illegible]

dotis.

[illegible]

[illegible] in mat. [illegible]

Qui [illegible] iudicandu [illegible] matrimonio [illegible]
[illegible] de [illegible] abb. [illegible]
de sponsa. [illegible] dubio [illegible] debet [illegible]
[illegible] non [illegible] ut [illegible]
[illegible] sententie [illegible] de sponsa.
[illegible] abb. [illegible] dicit
[illegible] si quis adultera [illegible] homicida, [illegible]
[illegible] non [illegible]
[illegible] coniunctos [illegible]
[illegible] Joanna de [illegible]
[illegible]
[illegible] multu [illegible]
[illegible] matrimonia [illegible] ipsorum [illegible]
quatuor testes quorum duo [illegible] et meliores [illegible]
de matrimonio. [illegible] dominici [illegible] contrarium [illegible]
3. test. [illegible] de matrimonio contrahendo

A primo [illegible] advertendum est ad malitiosam et falsam [illegible]
capitulationem matrimonii articulati per [illegible] que est indetermi-
nata et incerta et non habet tempus determinatum, neque dies:
neque mensis: neque anni quia in capit. [illegible] dicit quod dictum matrimonium
fuit [illegible] circa festum nativitatis domini [illegible] quod
quidem verbum: circa: multum tempus significat, [illegible] hoc contractu
[illegible] neque de mense neque [illegible] quia verbum, circa.
est [illegible] indeterminativum sicut dicit [illegible]: et ultra: Et similiter
advertendum est ad depositionem dicti dominici [illegible], qui confirmando
se cum dicta capitula [illegible] fundat suam depositionem super dicto verbo, circa,
que [capitulatione et depositione], ut dictum [illegible], est capitulatio falsa, [illegible] est indeterminata
[illegible] fidem [illegible] et [illegible], et nihil probat.
in [illegible] ut est [illegible]. et ibi abb. in c. [illegible] nom. de despons. impu.
ubi dicit [illegible] verbum circa non probatur certum et determinatum
tempus et [illegible] contra [illegible] indeterminatum
[illegible] hoc dictum, circa, sicut dicit
[illegible] videndum
[illegible] depositio. [illegible]
[illegible] de probatio. [illegible] dicunt [illegible] ad
[illegible] circa, [illegible] probare [illegible] ad [illegible]
[illegible] parum [illegible]
[illegible] de probatio. [illegible]
[illegible] circa:
[illegible]
[illegible]

[illegible] in [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible] [illegible] fuerit [illegible]

[illegible] prolatione [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] verbo [illegible]

[illegible] [illegible] de [illegible], quod idem est, quae verba [illegible] [illegible], et consequenter omnia super eo fundata sunt [illegible]

[illegible] [illegible] [illegible] [illegible] dicit

[illegible] super interrogatorio [illegible] [illegible] dicit [illegible]

[illegible] quod [illegible] non per [illegible]

[illegible] in minori spatio [illegible] [illegible] non [illegible]

dicit ut [illegible] [illegible] ergo debet deponere [illegible]

quod dictus testis est solus et singularis ideo non probat [illegible] [illegible] abb. in c. [illegible] de testi. [illegible]

quaedam sunt causae quae plures quam duos exigunt testes [illegible] [illegible] testimonio [illegible] legitimo [illegible]

[illegible] [illegible] [illegible] [illegible] non [illegible]

[illegible] [illegible] [illegible] non [illegible]

sint et iuratis sint non in alterius praeiudicium [illegible]

abb. in c. [illegible] [illegible] de testi. col. [illegible] versi. venio ad [illegible]

[illegible] verbo [illegible] ubi dicit quod [illegible] testes [illegible]

[illegible] probent, [illegible] [illegible] [illegible] [illegible]

singulares probant. sed in casu nostro neque [illegible] contrarie [illegible] confessione [illegible], requiruntur duo concordes, sed [illegible]

quo [illegible] [illegible] [illegible] sunt singulares et [illegible] singularis [illegible]

quia dictus testis est vilis persona [illegible]

interrogatorio ubi dicit [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] quae requiruntur in causa matrimoniali [illegible]

[illegible] [illegible] et ibi abb. in [illegible] nota. [illegible]

de [illegible] [illegible] [illegible] [illegible] sponsa. in [illegible]

ad dictum unius personae [illegible] sponsalia [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] est magis quae requiruntur in causis matrimonialibus

Quo ad [illegible] [illegible] 3. [illegible] [illegible] super confessione [illegible] [illegible]

[illegible] est [illegible] de [illegible], quia super interrogatorio [illegible]

testis [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] responderunt [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] verba [illegible] [illegible]

[illegible] [illegible] gradu [illegible] primo [illegible] [illegible]

[illegible] [illegible] utriusque [illegible] [illegible] abb. [illegible]

[illegible] [illegible] [illegible] [illegible] singularis [illegible] [illegible] [illegible] testes unus post alium viderint [illegible] [illegible] excommunicatus [illegible] [illegible] unus testis [illegible] [illegible] [illegible] [illegible] testes singulares probant [illegible] in [illegible]

[illegible] et singularis [illegible] singularis [illegible] sono [illegible]

3 [illegible] [illegible] sed [illegible]
[illegible] dicti [illegible] Ioanna [illegible]
[illegible]
[illegible]
[illegible] et si morire [illegible]
[illegible]
[illegible]
[illegible] que continetur [illegible]
[illegible] opinio
[illegible] et [illegible]

[illegible] duo [illegible] in abba [illegible]
de carolo testis [illegible] verba [illegible] quia loquuntur
per verba generalia [illegible] conclu[illegible] verum [illegible]
[illegible] 3 carolo dixit no so niente de [illegible] ma a Zuanna [illegible]
detto piero [illegible] di [illegible] volsi promettere a [illegible]
et adesso [illegible] ho promesso [illegible] sua [illegible] una bambina [illegible] carolo
[illegible] la Zuanna me disse dirai a gasparo no se pigli fastidio et
[illegible] voglio attendere [illegible]
Zuanna de carolo dixit [illegible] dixit [illegible] poi
et disse [illegible] no se toglia fastidio [illegible] quello [illegible] ho promesso [illegible] voglio
attender [illegible] duo [illegible] ultra id [illegible] sunt singularis [illegible]
continent etiam verba adeo generalia indeterminata et incerta [illegible]
non sint posse adaptari ad matrimonium, verum etiam ad quodcumque
aliud negotium, [illegible] propter [illegible] generalitatem [illegible]
indeterminationem nihil comprehendunt [illegible] concludunt [illegible]
probant id ad quod fuerint inducti, propter quod [illegible] dispo-
sitionibus [illegible] opponi illud [illegible] indeterminatum [illegible] oppositum
fuit dictionibus: [illegible] ideirco super eis non est
fundanda vis seu aliter insistendum.

Sed dato, non tamen concesso, [illegible] articulus seu [illegible] contractus matrimonii non
esset [illegible], sed esset [illegible] depositio [illegible] testis [illegible]
contractum esset pro illo [illegible] non esset singularis [illegible]
haberet [illegible], 3° non esse [illegible] persona sed esse [illegible] maior
Simile Franciscus 3 testis [illegible] matrimonii haberet in
[illegible] dicens [illegible] nominat in sua depositione et [illegible]
[illegible]
maior [illegible] contractum [illegible]
quia [illegible] contractum sub conditione [illegible]

[illegible] ut constat [illegible] comu[n]is [illegible]
[illegible]
[illegible]
[illegible]
ultra [illegible] ad [illegible]
[illegible] dicim[us] [illegible] no[n] separar[e] [illegible]
[illegible]
[illegible] dictu[m] verbor[um] [illegible]
[illegible] conve[n]tiam [illegible]
[illegible]
[illegible] dixit, la [illegible] ha [illegible] ha pro[messo] [illegible]
[illegible] sia [illegible] marido [illegible] co[n]senti[ent]e [illegible]
et no[n] [illegible] quindecim [illegible] questo que [illegible] soi consentit [illegible]
[illegible] qui tunc vivebat, quia [illegible]
suoru[m] [illegible] maioris [illegible], et filij sunt in sinistr[a] p[ar]te
vnde [illegible] et eisdem [illegible] testibus [illegible] ac [illegible]
[illegible] probatur q[uod] fuit contractu[m] sub conditione honesta
[illegible] gaspare la facia domandar alli soi, et [illegible] soi consen[tiranno]
que conditio annullat [illegible] et irritat matrimoniu[m] contr[actum]
sub illa conditione donec no[n] fiet [illegible] co[n]ditio, i[mm]o matrimo-
niu[m] no[n] dicitur contractu[m] nisi verificata conditione [illegible]
[illegible] sup[er] eo. de conditio. appo. [illegible] est ratio ut dicit [illegible]
[illegible] co[n]ditione consensus [illegible] in arbitrio [illegible]
[illegible] no[n] [illegible] matrimonia [illegible] cu[m] loc[um] de sponsa. [illegible]
procur. [illegible] vi. ubi procurator ad contrahendu[m] matrimon[ium]
[illegible] contrahat, matrimoniu[m] [illegible] contrac[tum]
[illegible] et [illegible] de conditi[one] appo. dicit hec for[ma]
[illegible] consensus est collatus in arbitrium alterius [illegible]
[illegible] si pater meus consenserit [illegible]
no[n] est matrimoniu[m] nisi pater consenserit. [illegible] con-
[illegible] no[n] [illegible] parentes et alios consanguineos [illegible]
[illegible] in [illegible] sup[er] eo [illegible] nota et [illegible]
[illegible] S[ed] [illegible] quatuor qualitates conditionu[m] [illegible]
i[n] matrimonio, Prima est conditio turpis ut si mulier [illegible]
accipio te i[n] maritu[m] si occidis [illegible] ut si fuerit co[m]missu[m], [illegible]
ista conditio turpis annullatur et habetur pro no[n] appo[sita] [illegible]
matrimoniu[m] remanet validu[m]. Secunda est co[n]ditio [illegible]
ut si [illegible] dixit [illegible] accipio te i[n] maritu[m] si celu[m] dig[ito] [illegible]
et similia, hec conditio impossibilis annullatur et pro no[n] [appo]
habetur et matrimoniu[m] remanet validu[m]. Tertia c[on]ditio [illegible]

[illegible] conditio [illegible]
[illegible] contracto
[illegible] conditio [illegible]
[illegible] iudicij [illegible]
[illegible] debere [illegible]
[illegible] do [illegible] dicto

Ego Gerardus de [illegible] minimus [illegible]
[illegible] opinionem [illegible]

[illegible]

·C vo in. et in · c. fi [illegible]

·c. mulieri, q [illegible] [illegible] [illegible] et cause [illegible]
in arbitrio ·l. i. ff. de iure dotis [illegible] in propria nostro [illegible]
causa que est fauorabilis ·c fi. de [illegible] iudi ·c fi de [illegible] ·c. li. [illegible]
in fi. de test. alterum [illegible] ipsa est mulier [illegible] [illegible] et [illegible] marem
sibi eandem conditionem et [illegible] Viri [illegible] contractu matrimoniali [illegible]
[illegible] [illegible] et q [illegible] sunt plures confessiones et [illegible] [illegible] et [illegible]
et q [illegible] Viuus [illegible] [illegible] in amorem aliquid [illegible] no [illegible]
[illegible] per [illegible] quem [illegible] [illegible] sed [illegible] et [illegible] [illegible] [illegible]
Rlam [illegible] Vestram [illegible] et esse deferendum iur[m] superiorum [illegible] [illegible]
in [illegible] probationis [illegible] alter [illegible] et q matrimonio [illegible]
[illegible] nullus [illegible] non [illegible] deferendum iur[m] [illegible] in causa ardua sed
iudex [illegible] debet illud [illegible] [illegible] [illegible] et cause [illegible]
c fi. §. i de iur. iur. et sic [illegible] [illegible] [illegible] et qualitates [illegible] per
[illegible] iudex illud deferre arg. [illegible] in ·c [illegible] Causam ubi glo. [illegible]
in ·c. Vidua de [illegible] ubi est glo. q [illegible] in [illegible] ardua [illegible] est [illegible] [illegible]
in in [illegible] agitur de [illegible] [illegible] [illegible] no [illegible] [illegible] iur[m] suppletorium
[illegible] ubi concurrunt [illegible] presumptiones et [illegible] [illegible] defertur et [illegible]
[illegible] [illegible] [illegible] [illegible] et Alex. in d. l. admonendi §. [illegible] in ·c. fi. de
iur. iur. et [illegible] Alex. in Cons. 2 6q [illegible] [illegible] [illegible] in 2[do] vol [illegible]
deferri iur[m] [illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible]

[illegible] nomina commissionis predictorum partis [illegible] et quodlibet alio

[illegible] et depositione dicti ac [illegible] uidemur alias

[illegible] in [illegible] examinatur sup. [illegible] capitulo que deponit [illegible]

[illegible] fuit pro ambabus partibus de depositione [illegible] et [illegible]

[illegible]

[illegible] fuerit [illegible] eandem [illegible] in amore [illegible]

[illegible] ultra [illegible] [illegible]

[illegible] p.o capitulo [illegible] da mo

[illegible] Vincenzo [illegible] a San [illegible]

[illegible] uido [illegible] Mam

[illegible] da [illegible] San [illegible] uero fuerunt [illegible]

partis [illegible] Angelo superius nominato sup.

ac [illegible] examinata sup. [illegible] uero fuerint [illegible]

aduersa parte uidemur dictum et depositione Joannis Antonii [illegible] dixit

dixit: Io ho fatto un [illegible] a San Bellis, et mio padre no

[illegible] in [illegible] no fuerint [illegible] per meglio [illegible]

ipsa trahi no possunt in aliquem alium sensum, quod ut eam [illegible]

uxorem [illegible] conditionem ipsius viri pauperis no [illegible]

[illegible] paupertas sua [illegible] [illegible]

[illegible] quod [illegible] ipsius viri quod [illegible] uerba lo [illegible]

[illegible] alias [illegible] quod [illegible] uxorem no [illegible] [illegible]

[illegible] la [illegible], sed [illegible] no uolendo mio padre lo la [illegible]

quod [illegible] uxorem [illegible] no [illegible] quod [illegible] homo no [illegible]

[illegible] dictum [illegible] Medici [illegible] examinati sup. [illegible]

lui ben ditto [illegible] la [illegible] no [illegible] [illegible]

[illegible] quae uerba in alium sensum [illegible] sup. [illegible]

possunt nisi quod [illegible] eam [illegible] in uxorem. Videmur dictum [illegible]

[illegible] sup. [illegible] ubi ad responsionem [illegible]

[illegible] fatto [illegible] Idem [illegible] ~~[illegible]~~ [illegible]

[illegible] pui uoler [illegible] uoluto hauer [illegible] ditto [illegible]

la hauea uoluto [illegible] la hauea [illegible] subiungendo [illegible]

lo la ho [illegible] la ho [illegible] mi [illegible] quae uerba alium [illegible]

[illegible]

vero [illegible] primo loco [illegible]
dictionem ipsius Marie, attamen quam non ponunt [illegible] cum in aliqua
et in aliquo opponitur Item si [illegible] videntur [illegible] dare facile
[illegible] ut [illegible] examinemus et opponunt quod sit inimicus [illegible]
attamen non opponunt sunt, aut inficiatur aliquam inimicitiam sed tamen quandam [illegible]
verba et inimicitiam que eciam repellunt ipsum testem a testimonio, sed nec in aliquo
minuunt fidem dare non tamen [illegible] quod [illegible] probata quod tamen [illegible] negatur.
nullus enim [illegible] aliquid deponit et aliqua inimicitia [illegible] quod Dominus [illegible]
qui tamen aliquam non fuit fidem, aut [illegible] non [illegible] causam inimicitie
neque aliquam rationem reddat sue depositionis [illegible] singularis opponitur [illegible]
Angelo quod dicant velle erogare dona pro defensione cause ipsius Marie, et id
non ponunt [illegible] singulariter testem et hoc facile [illegible] et dare non tamen [illegible]
quod [illegible] Iudam, [illegible] Angelo non est [illegible] habuisse animum
erogandi eius donis [illegible] non habuerit aliquam donis [illegible] ipsam [illegible]
[illegible] quod [illegible] non habuerit aliquam [illegible] non potest, et
[illegible] dicitur quod quando aliquam habuerit donis [illegible] non possit [illegible]
[illegible] Constitutionem [illegible] quibus [illegible] habentis [illegible]
non posse [illegible] sive alii [illegible] donis [illegible] R.da [illegible]
opponitur Modesto [illegible]
[illegible] ponunt [illegible] clare patet, Item testis [illegible]
qui est Carolus Baptista Rubei [illegible]
[illegible] et Vido [illegible] ipsi Marie [illegible]
[illegible] nihil [illegible] probarent, Item nullus [illegible] aliquid [illegible] aliquo [illegible]
[illegible] deponit sed deponunt [illegible]
fidem, sive aliquod [illegible] R.da [illegible]
[illegible] populi in aliqua consideratione non veniunt habendi in [illegible]

[illegible] salutem. Ergo vult [illegible]
[illegible] multis annis in curia nostra [illegible]
[illegible] connexionis [illegible]
[illegible] dñi et [illegible] possint [illegible]
[illegible] iudicie [illegible]
[illegible] concludendo [illegible]
[illegible] in defendendo [illegible] in supplicationem [illegible]
[illegible] declarando [illegible]
[illegible] ad eundem [illegible] iudicando [illegible]
[illegible] ecclesie et sacrorum canonum [illegible]
[illegible] tempore [illegible]

[illegible] ut [illegible], et magna [illegible] c. i. de consuetudi. et [illegible] abb. in c. quer. [illegible] de generat. et c. et [illegible] secundo not. et q°. [illegible] causa matrimonialis est causa gravis, et comparatur [illegible] [illegible] per abb. [illegible] de [illegible] in i. col. et [illegible] d. [illegible] 133 et [illegible] causa [illegible] non [illegible] in supplemento probationis [illegible] causa matrimoniali per bar. in l. maritus ff. [illegible] [illegible] in speciali dicit d. hipoli. in d. l. maritus nu. 13. fo. 65. quod in causa matrimoniali non defertur juramentum in supplementum probationis et hoc sequitur decius in dicto consil. 133. in 2a. col. Nihilominus in quantum juris causa matrimonialis licet sit causa ardua et magni ponderis, quia est una de septem sacramentis ecc. et agitur in ea de statu hominis, ut supra dictum est, Tamen est causa favorabilis in dubio, Nam in dubio judex debet sententiare pro matrimonio c. licet ex quadam [illegible] de testi. in fi. et c. fi. de re judicata per abb. in c. ex litteris de sponsa. in glo. 2a. versi. sed potius in favorem matrimonii debemus presumere non sic in criminalibus, Et in causa matrimoniali admittitur procurator prout in aliis causis spiritualibus. cle. i. de procuratoribus et [illegible]. Non autem in causis criminalibus, quia in eis reus debet personaliter comparere et non per procuratorem c. i. de offi. deleg. [illegible] per abb. in c. literas de restitu. spoliat. et sic in causis criminalibus licet non detur juramentum in supplementum probationis, Tamen bene datur et dari debet in causis matrimonialibus, quando extat plusquam semiplena probatio ut per abb. in d. c. mulier, col 3. versi. quid si actor est optimae vitae, ubi dicit quod si actor habet plusquam semiplenam probationem, certe potest recurri ad juramentum per addentem ad ipsum abb. in dicto loco qui adducit pau. de ca. et alex. in l. iij. ff. de iurejur. utrumque in ulti. col. allegans jo. andr. in c. fi. [illegible] bal. in l. i. in bone fidei in ulti. col. versi. [illegible] inspicitur qualitas rei ubi dicit quod licet in causis feudalibus quia magne sunt, non defertur juramentum in supplementum, Tamen bene defertur possessorii quia possessio aliquid adiungit semiplene probationi et idem in arduis causis [illegible] est verum, nisi esset plusquam semiplena probatio Tunc si actor sit persona honesta poterit judex deferri juramentum et ibi allegat salic. Ludo. ro. Alexandr. de [illegible]. et alios, Per que [illegible] doctor limitat dictum abb. et aliorum docto. in c. fi. de [illegible] [illegible] dicentium quod in causis arduis non defertur juramentum in supplementum probationis, Et in multis aliis [illegible] bus casibus est differentia et fallentia causa matrimonialis differt a causa ~~[illegible]~~ criminali quos hic brevitatis causa omitto.

veniendo ad discussionem huiusmodi ... ... contrariam matr
pater prestiti fuisse et esse p... ... ... alium ... pro ...
videretur ... et ho p. confessionem dicti baptiste. Extra in presenti
coram duobus testibus ... la mia mogle loquendo de augusta
et ella e cum suo marido, et da la Sagra di ... vido servano ...
... li ho promesso ... ...
nondum ... pro matre ... hoc deponunt duo testes ...
Iacoba matre ... ... que ... ...
dicta confirmatio ~~dicat ...~~ probaria per confessionem ...
inter in absentia augusti, ... alios duos testes ... bernardi
... ipse baptista dixit vado a ~~lavorare la Zanana~~ ... la ...
... li saranno dui ... le dui anni et li ho promesso ... per ...
... ipse baptista dixit no voio la Zanana per moier
... ipse baptista dixit ... et sono piu de dui anni che io li ...
... ... voglio altro et contentarme ...
... hoio da fare cum mio padre voglio altro et contentarme ...
per alios tres testes constat quod baptista dixit velle attendere ...
augusti ... ... promiserat circa matrimonium pro gabriele ...
dixit ei quod matrimonium erat ... ...

Que dicte confessiones ... , repetite, et ... in presentia ...
et in absentia ... probari per testes ... ...
quia ... ... testes ... ... l. ... ...
faciunt plenam probationem, quia confessio ...
presentia valet et preiudicat confitenti. glo. in c. testes iij. q. ix. ...
c. si cautio de fide instru. per glo. et abb. ac alios doc. in c. si ...
opinionem facit doctrina abb. in c. cum dilecti ... ab ... in ... not. ...
additio incipit bal. vero per ipsum tex. ubi dicit quod confessio ...
presentia ... est valida et preiudicat confitenti. immo quod plus ...
... in causis matrimonialibus confessio extraiudicialis et parte absente
valet et preiudicat confitenti, ut in libro differentiarum inter ius civile et
canonicum in ... ubi dicitur licet confessio facta parte absente
preiudicat confitenti per tex. in l. certum § si quis absente. de confessis ...
... de iure civili, secus de iure canonico, quia valet secundum ...
in d. c. si cautio. ... secundum ... canonica ... ...
et hoc videtur voluisse glo. in c. quotiens in ver. ... ...
dicit ... in d. c. si cautio. illud dictum d. Anto. esse singulare ...
... ibi dicens de iure canonico valere confessionem ... facta ...
... in ... de ... ad ... iij. q. ix. et bal. in c. ... in ... col. ...
in causis ... et spiritualibus valet confessio absente adversario.

[illegible] per revocari [illegible] i dicta
decreta, [illegible] dicit quod [illegible] obstat theorica abb. in
d. c. in [illegible] per qua[m] [illegible] impugnare dicta differentia [illegible]
[illegible] videtur esse [illegible] [illegible]

[illegible] modo [illegible] confessionis facte per baptista sunt geminate et repetite [illegible]
confessio geminata etiam extra iudicium facit plena[m] probationem per abb. in
c. [illegible] et per [illegible] in c. Sua nobis. de appellatio[nibus] et ibi abb. dicit quod
[illegible] confesse [illegible] preiudicium ex defectu presumptionis voluntatis. si fuerit
geminata, valet. quod [illegible] notabilis, et ibi per additio[nem]. allegantur
[illegible] de cast. ludovic. ro. et [illegible] tenentes hanc conclusionem, videndus
[illegible] Jo. de anna. in cons. 55. circa medium, ubi dicit quod confessio extrajudi-
cialis, parte absente, si est repetita, habet vim confessionis [illegible] aliis

Et pro verificatione premissorum est considerandum Iuramentum prestitum per baptistam
super confessione premissis prout deponit bernardus [illegible] testis quia si confessio
extraiudicialis parte absente in causis matrimonialibus et spiritualibus facit
plenam probationem, ut supra dictum est, et in prophanis causis facit semiplenam
attamen si accedit Iuramentum etiam in prophanis facit plenam probationem
ut per bal. in l. i. circa viij. col. C. de confess. qui dicit quod confessio extra
iudicialis in causis prophanis facit semiplenam probationem quam conclusionem
limitat seu potius ampliat, nisi in tali confessione extraiudiciali interve-
nisset Iuramentum, quia cum Iuramentum suppleat presentiam partis facit quod
probaretur plene, idem bal. in rub. C. [illegible] inter alios acta. et [illegible] idem voluit bar
in duobus locis in l. cum quis decedens. § codicillis ff. de leg. iij. et additio ad
abb. in d. c. [illegible] in percept. versi. confessio extraiudicialis facit dictum
abb. in c. super eo. de consangui. et affini. super glo. [illegible] ubi dicit quod licet Iura
[illegible] non [illegible] [illegible] matri[illegible] ut sponsalia. tamen addit
fortius vinculum

Sed [illegible]
quia iste contractus matrimonij est probatus per confessiones partim parte pre-
sente, et partim parte absente dico quod debent coniungi, quia probationes se-
parate quando tendunt ad idem, debent coniungi ut faciant plenam
probationem, etiam in [illegible] dicit abb. in c. fi. de successio. ab intesta. col. pen.
versi. et ideo dic. ubi dicit formaliter verba, et dicit semiplenas probationes
tendentes ad eundem effectum iunguntur ad faciendam plenam probationem

Unde concludo quod contractus predictus matrimonij sit plene probatus per confessionem
baptiste in presentia auguste; et hoc per dictos duos testes. vz. mariam et

probā testē augusti quia ī causa mi[illegible] [illegible]

[illegible] ī c super eo [illegible] [illegible]

ipse testis et [illegible] maior et contra [illegible]

ī no, nec detrahitur [illegible] aliquid de fide [illegible] absent[illegible] post [illegible]

[illegible], quia [illegible] testimonii vestro contrarium [illegible]

et valuit [illegible] clarat decisio [illegible] et

si circa medium. ubi dicit [illegible]

parietem habens vocem [illegible] non [illegible] posset [illegible]

seu verbis probatus a testio, et ibi allegatur [illegible] iste labor

Summa. ff. de aqua pu. [illegible] et [illegible] testium. C. [illegible]

[illegible] q. [illegible] ff abb. ī c. cum causam. ff. de test. col. v. vers.

[illegible] ubi allegat [illegible] qui vult dicere testis valere si nō vi[illegible]

quentes sed erat vestro continuo ut tenuem [illegible] idem abb.

de consuetu. ubi ponit exemplum ī ho. et ibi ff adcino. pro fi

sicut de sinuen. et ve [illegible] contra testis dicentis se vidi[illegible]

no. [illegible] quanto magis valere debet depositio [illegible] testis

ī [illegible] in eodem loco locutum fuerat. cū dicto baptista [illegible]

et illum videbat, et audiebat vocem illius notam, [illegible] nihil oper[illegible]

nihil detrahit depositioni [illegible], [illegible] remanet testis [illegible]

[illegible]

Altera testis conformis prime est dōna Jacoba mater dicte auguste

Similiter est testis integre [illegible] ī c super eo [illegible] ff. de test. vi

[illegible] matrem ī testē ī causa filie dūmodo inter contrahentes

disparitas divitiarum, nobilitatis, potentie, ut honoris, sed ī casu [illegible]

[illegible] constat, quod ambe partes sunt pauperes, [illegible]

licet dicatur [illegible] pater baptiste habeat certam domunculam [illegible]

immo Joannes de canali testis examinatus ad [illegible] baptiste [illegible]

disparitate contrahentium dicit Jo nō daria una mia sorella [illegible]

al [illegible] cū dota de ducati 70. subdens et se maestro [illegible]

bone padre de esso baptista vol viver, bisogna che [illegible]

[illegible] il padre de la augusta, unde nō video quomodo [illegible]

ista disparitas, que reprobet testificationem dōne Jacobe [illegible]

[illegible] quando bene esset aliqua disparitas [illegible]

[illegible] habens nō [illegible] ī [illegible] [illegible]

[illegible] unus contrahentium superet alium ī modica excellentia [illegible]

[illegible] parentes [illegible] testimonia bene fuit [illegible] abb. ī [illegible]

[illegible] vo dicit de facili probare videtur se disponsatam
fore [illegible] ut plebeius se disponsasset Regina [illegible] concedo part
[illegible] et [illegible] docto non [illegible]
meliorita[illegible] [illegible] probabilius ad finem [illegible] matre a
[illegible] sunt per [illegible] p parte baptiste [illegible]
remanet valida depositio dicti domini Jacobi, et [illegible] maxime [illegible]
[illegible] q plene probant

Vera [illegible] probatione Sunt et alij quinque testes qui p eorum iuramentum
deponunt et probant confessionem baptiste de contractu matrimonij [illegible]
[illegible] quilibet eorum facit semi plenam probationem, ut Saltem
talem [illegible] probationi dictorum duorum [illegible] et fuerunt plures
[illegible] probatione [illegible] ne esset plus [illegible] ut minus [illegible]
p[illegible] debet recurri ad Juramentum suppletorium prout superius dictum est
i principio, quia non potest negari quin non sit probatum plus [illegible]

et a sa dona Jacoba minor.

Ultimo quia Causa matrimonialis est causa favorabilis, et i dubio pro
nunciari debet pro matrimonio ut supra dictum est et i ea procedimus si
marie sola facti veritate inspecta [illegible] c. dispendiosam . de [illegible]
et i. c. seppe [illegible] verb. signi. Merito de facili sapiens Judex potest
inspicere ex processu veritatem ipsius matrimonij, Per que concludo
pronunciandum fore et esse pro validitate matrimonij cum condemnatione
expensarum contra succumbentem Laus deo

Et Ita Sentio de Jure Ego [illegible] de [illegible] decretorum decr
Minimus ac Canonicus [illegible] Salva semper saniori opinione
Et i fidem me subscripsi

[illegible] allegationes [illegible] dedans fuisse solum in dubiis, prout et consilium
sapientis non debet petere neque dari in decisione causarum, nisi in dubiis
[illegible] [illegible] verbis et ibi bar. ff. de legat. iii. idem bar.
in [illegible] l. elegantem in prin. de condictio. indeb. bal. et ibi alleg.
in [illegible] l. placet in prin. C. de sacro. san. ec. ubi quod consilium
non debet haberi nisi in dubiis per additio. ad abb. in c. cum dilectus.
de consue. [illegible] clara. ubi dicta additio declarat contra
[illegible] dubia in rebus claris et manifestis. Nihilominus in hac
[illegible] contractus matrimonii ut dicitur contracti inter
[illegible] honoratam [illegible] altrix et una et d. anthenore [illegible]
[illegible] partes ex altera in qua mihi videtur non fore necesse
[illegible] eius [illegible] sed pro
satisfactione voluntatis dicti d. anthenoris meis [illegible] allegationes
[illegible] compaginavi, et quia ut dixi res ista clara non argua[illegible]
aliter ad partes, sed dico in hac causa non constare de aliquo con-
tractu matrimonii et minus de copula carnali. Nam et testibus
duodecim examinatis, undecim eorum nullum penitus verbum dicunt
de matrimonio, immo dicunt de eo nil scire, sola autem ultima
testis [illegible] ursula deponit circa matrimonium, quae licet admittatur
ad testificandum in causa matrimoniali, quia et mater admittitur
pro filia in tali casu. c. [illegible] de testi. Tamen quia est famula
[illegible] dicte honorate adversarie, cuius servitia gerebat [illegible]
[illegible] petri pagani [illegible] seu sororis ac procuratoris [illegible] causa
dicte honorate, non est testis integre neque omni exceptione maior, et sic
detrahitur ei de fide per [illegible] glo. in c. [illegible] de testi. [illegible]
in [illegible] de teste. [illegible] col. [illegible] Sed quod [illegible] mercenario, dicit quod
id quod de famulo dicitur quod non potest testificari habet locum in [illegible]
si non esset salariatus. hoc similiter refert additio ad abb. in d. c. in litteris.
et ibi glo. in ver. de familia dicit quod familiaris appellatione mercenarii et
[illegible] de domo [illegible] in testes cum distinctione [illegible]
contra eos [illegible] et non [illegible] conjunctis [illegible] testes fa-
milia admittuntur in teste in causa matrimoniali [illegible]
servitia. Tamen propter hoc non est testis integre [illegible] omni exceptione maior
de quibus requiritur in c. i. de consanguinei. et [illegible] per abb. in
[illegible] nota. ubi [illegible] dicit quod testes [illegible] in causa matrimoniali
debent esse omni exceptione maiores

Dicta ursula est testis singularis, et dictum unius testis singularis non suffi-
cit. [illegible] abb. in c. licet [illegible] de testi. in not. ubi dicit [illegible] dictum
unius [illegible] non sufficit [illegible] Consilium [illegible]

[illegible] [illegible] [illegible] [illegible] pro [illegible] [illegible] [illegible] admissi [illegible] [illegible] consanguinei [illegible]

[illegible] dicit quod nulla causa est que testimonio [illegible] [illegible] [illegible] quia testis unus [illegible] [illegible] non [illegible] [illegible] [illegible] [illegible] [illegible] preiudicium alterius. Idem abb. in c. cum causam [illegible] [illegible] Circa hoc dicit videmus [illegible] quod testes singulares quia multa imperfecta non [illegible] [illegible]

3 Testimonium dicit [illegible] non [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] domus. Imo [illegible] [illegible] hora [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] luna [illegible] [illegible] quod [illegible] de [illegible] sub [illegible] [illegible] [illegible] [illegible] [illegible] fidem est [illegible] c. [illegible] qui [illegible] [illegible] sub dicto [illegible] [illegible] debet in sua testificatione [illegible] verisimilia [illegible] c. quia verisimile [illegible] de presumptio. c. [illegible] [illegible] non est verisimile ff. quod met. cau. videndum [illegible] [illegible] abb. in c. cum contingat de rescript. in ver. mandato. ubi dicit quod non est verisimile [illegible] [illegible] imago. [illegible] [illegible] vol. vj. [illegible] dicit de teste deponente de visu in nocte [illegible] [illegible] probat. [illegible] dicit bal. in l. [illegible] ff. [illegible] [illegible] in testibus reprobandis quia luna non lucebat. quos dicit vidisse [illegible] dicunt ipsum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sorte casu et fortuna [illegible] [illegible] videntem [illegible] [illegible] dictis [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et Simo. [illegible] est [illegible] in c. [illegible] iij. q. ix. qui dicit quod testes hiis etiam qui audierunt si ad hoc vocati sunt in civili causa testimonium dicere possunt, ut ibi in dicto [illegible] dicit [illegible] [illegible] inania [illegible] si [illegible] [illegible] [illegible] sunt, [illegible] aliud opus advenit [illegible] audivit aliquo dicente [illegible] [illegible] aurum aut deberet alicui, nulla ratione valere [illegible]

Contra conventum quia est clandestinus reprobatus a iure [illegible] monium clandestinum quod non fit per edicta in [illegible] ut in c. [illegible] desponsa: quod quidem [illegible] ubi [illegible] [illegible] [illegible] [illegible] edicta ut ibi dicit. Sed [illegible] non [illegible] [illegible] [illegible] quod contrahant coram multitudine [illegible] [illegible] [illegible] in [illegible] [illegible] ut [illegible] abb. in c. [illegible] adeo quod [illegible] [illegible] est [illegible] in duobus testibus [illegible] [illegible] [illegible] [illegible] de testi. [illegible] c. i. de consanguin. et affi. [illegible] [illegible] [illegible] [illegible] casi. ubi dicit [illegible] [illegible] matrimonii [illegible] [illegible] c. i. de consangui. [illegible] dicit quod debent [illegible] [illegible] [illegible]

.. i contractu matrimonii non [illegible] multitudo [illegible] seu du[illegible]
[illegible] non dicitur [illegible] pectus contractus sed est clandestinum
[illegible] Lex ac Canon [illegible] fornicationem tamen matrimonium [illegible] aliter
xxx. q. v. et ibi glo. [illegible] xx. i. c. i. xxxv. q. i. quo. i. i. c. vi. de
clandestina desponsatione. quo. i. c. vi. de secundo nup. ubi habetur quod est pre[illegible]
[illegible] potius stuprum [illegible] quam [illegible] matrimonium

[illegible]° [illegible] [illegible] [illegible] fide est [illegible] factus de nocte i[illegible]
[illegible] maxime [illegible] signo [illegible] etiam [illegible] [illegible] contractus occulte
[illegible] maxime [illegible] [illegible] presumptionem contra se contractus
[illegible] [illegible] sunt [illegible] [illegible] de nocte [illegible] occultus ut [illegible] delis. i. c. porro. [illegible] Sentir. [illegible]
[illegible] de nocte [illegible] occultus ut [illegible] [illegible]
[illegible] [illegible] factus de nocte, ut ibi dicit quod instrumentum occulte
[illegible] presumitur simulatum bene [illegible] [illegible]. i. c. consuluit [illegible] offi.
de[illegible] ubi qui male agit odit lucem. et ibi glo. i. ver. odit. dicit quod
tenebre apte sunt ad fabricandum falsum

Vi° contractus matrimonii per depositionem [illegible] non probatur in una vicina.
quia deficit consensus unius partis. Dicit [illegible] Sentiti dire a dito
mis [illegible] horsu madona honoria volete [illegible] [illegible] meglio [illegible]
confermar le parole che hauemo ditte [illegible] da in fuora et [illegible] pote
intender quello [illegible] rispose madona honoria [illegible] era drento in casa,
et sentij poi il dito mis [illegible] [illegible] replicando dicendo dicesti [illegible]
dire mi vi accetto per mio legitimo marido come comanda la s. madre
giesia et dio sia nostro testimonio, et poi disse Jo vi accetto per
mia moier come comanda la s.ta madre giesia, ma [illegible] non sentite
madona honoria per esser de dentro, unde quia dictum verba ab una
parte prolata non concluditur contractus, quia contractus est v[illegible]
citroque obligatorius. l. labeo. [illegible] contractu. ff. de ver. signi. et ibi [illegible] bar.
et melius per abb. i. c. [illegible] [illegible] ver. [illegible] videmus de condi. appo. ubi dicit
nisi ambo contrahentes consentiant non valet contractus. Et maxime in contractu
matrimonii in quo est data forma contrahendi. i. c. si inter virum et
mulierem de sponsa[illegible] ubi dicitur. vz. utroque dicente ego te in meum accipio.
et ego te accipio in meum. ubi glo. dicit ergo a contrario [illegible] tantum non
est matrimonium et ibi circa [illegible] [illegible] dicitur aliud quod est in stipu
latione in qua requiruntur verba in [illegible] [illegible] [illegible] idem est in ma
trimonio [illegible]. d. c. si inter [illegible] virum [illegible] dicit, et dicit quod hoc fallit
si [illegible] signum equipollentia et in [illegible] subsequenter [illegible]
[illegible] [illegible] [illegible] quia multi propter verecundiam annuunt [illegible]
ponit quod loquantur [illegible] [illegible] partibus ut dicit ibi glo. Sed
in casu nostro non [illegible] verbis [illegible] signum [illegible] [illegible] [illegible]

[illegible] ... comunionem parentum ... [illegible] quod est iure retentum in matrimonio ... [illegible] Coniugum et forma sunt verba vel signa ... verbis ut est ... [illegible]

[illegible]

Ultra Comissio apostolica reservata et dona honoria ... quattuor ... quia papa in eius signatura dicit ... sicut vult et de iure iuramentum in ... in causa matrimoniali nisi ... Thesis causa iuramentum de iure dari non potest quia ... matrimonii est causa ardua et in ea agitur de statu hominis ... hoc servitus consuetudinis in ipso glo. i. d. c. mulieri ... et ibi abb. in i col. ... dicta glo. et equiparatur causis ... ut ... filiorum dec. ... 133 Et quia in causis arduis non datur ... in supplementum probationis videnda est additio ad ... in ... de testi. in ver. quando autem non defferatur ... ubi plene tractat de hoc ... iuramento ... possessorio ... quod iuramentum in talibus causis arduis et magnis non defferatur in supplementum probationis nisi plus aliquid haberet ultra semiplenam probationem puta aliquam presumptionem ut iudicium boni ... hoc est notandum quia quottidianum, In terminis d. abb. in ... mulieris in iij col. ver. quid n. si actor dicit quod si actor ... et petit puellam se inferiore ut equalem et habet ... unum probatissimum testem ut forte habet duos testes ... non est ... integer et sic habet plusquam semiplenam probationem ... propter ad iuramentum veniri. Ita similiter ibi in additione dicitur quod in causis famosis et criminalibus et civilibus ... defferatur illud iuramentum et idem in ceteris causis magnis ... dubiis et verum nisi esset plusquam semiplena probatio ut quia ... semiplenam probationem aliquid esset adiectum ut quia ... quis duos testes quorum unus non esset omnino integer ... aliqua alia presumptio tunc iudex posset deffere iuramentum ... in ... causis et ibi allegat ... vult ... causa de iure non est in terminis iuramento ...

[illegible]

Vicis obstat alia clausula in dicta Confessione apposita commiss. [illegible] quod in
[illegible] quod no[n] Contraxit de matrimonio quod cum [illegible] ad
ip[s]a[m] [illegible] dotanda ob [illegible] quia [illegible]
et prout de [illegible] unde cu[m] [illegible] Consistit per [illegible]
[illegible] ideo [illegible]
[illegible] ut [illegible]
[illegible] dicitur [illegible]
[illegible] de [illegible] et [illegible] abb. ubi dicitur, [illegible]
[illegible] est difficilis [illegible] quod [illegible]
[illegible] fuerint visi in [illegible]
[illegible] et quod [illegible]
[illegible] ad Copulam. Sed quia [illegible]
[illegible] Concludendo dico [illegible] est in pronunciando [illegible]
tore seu fuisse Contra[illegible] pred[icto] [illegible]
[illegible] absolutum fore et absolvi debere a petitis [illegible]
tor in expensis condemna[illegible] Laus deo

Ego Goffardus de Minardinis iuris utriusque doctor minimus et Canonicus
[illegible] Ita sentio de iure prout supra Salva semper saniori [illegible]
nione cui me remitto et in fidem me subscripsi cu[m] [illegible] appositione

Nec [illegible] relinquat [illegible] fundamentum ex adverso allegatum [illegible] quod subintelligitur
quod honoria responderit per verba subsequentia [illegible]
[illegible] quia in matrimonio ubi verba ut signa [illegible] re-
quiruntur illa no[n] subintelliguntur sed oportet quod [illegible] Consen-
[illegible] non debet [illegible] forma [illegible]
[illegible] pro [illegible] unde si [illegible]
et velit quod [illegible] matrimonio per [illegible] verba [illegible]
prima [illegible] secunda responsiva, [illegible] illa subintelliguntur
verba ut signa [illegible] non [illegible]
se dicta honoria [illegible] verba [illegible] signa [illegible]
subintelliguntur in [illegible] Certum est quod [illegible]
[illegible] subintelligitur non [illegible] in casu isto, [illegible]
[illegible]
[illegible]

[illegible]

quo ad [illegible] traductionem dicitur quod [illegible] fecit testes [illegible]
[illegible] [illegible] [illegible] via in honoria [illegible]
[illegible] in traductionem [illegible], quia uxorem non traducere
[illegible] soluta [illegible] honoria [illegible] porta
[illegible] ipsius [illegible] [illegible] [illegible]
fuit ut [illegible] testes. [illegible]
[illegible] [illegible] honoria [illegible]
honoria [illegible] ut [illegible]
ut vulgariter dicitur [illegible]
ad eius domum [illegible] [illegible] ad [illegible]
qui duo testes [illegible] solutam traductionem, [illegible]
[illegible] quia sunt testes ipsius honorie [illegible]
[illegible] de traductione [illegible]
[illegible] non [illegible] traductione
[illegible] ad famam publicam, [illegible] audivisse, [illegible]
[illegible] a minori parte [illegible], [illegible] alio modo [illegible]
[illegible] unus dicit uno modo [illegible] alio modo [illegible]
[illegible] dicitur. Rumor [illegible]
[illegible] [illegible] nota. [illegible]
fama et rumor [illegible] a [illegible] ipsius
[illegible] ut [illegible] definitione [illegible]
[illegible] testes [illegible] honoria, [illegible]
[illegible] fama [illegible] [illegible] ad [illegible]
[illegible] ad nos. [illegible]

[illegible] de ano agitur R.mi pro [illegible]
[illegible] summi [illegible] ne [illegible]
[illegible] uidetur [illegible] cardinalis [illegible] agitur [illegible]
[illegible]
[illegible] Belmi [illegible]
[illegible]
[illegible] in parte [illegible] et [illegible]
[illegible] p[illegible] in [illegible] Dom.ni [illegible]
[illegible] et prius matrimonio
[illegible] [illegible] primum [illegible]
[illegible] sermo [illegible] nomine [illegible]
[illegible] cum [illegible] eo sermonem quo [illegible]
uidetur [illegible] in [illegible] in [illegible] in [illegible]
[illegible] cognitionem habere super eo
matrimonio [illegible] in [illegible] [illegible] [illegible]
q Dom. Vestra non potest cognitionem super pro prius matrimonio
[illegible] super eo [illegible] uideri.
[illegible] et [illegible]
disputare [illegible] non [illegible]
Vestra non [illegible]
[illegible] et in [illegible] q R.mi in [illegible]
si [illegible]
[illegible] cum sua [illegible]
[illegible] et [illegible] regula
ne [illegible]
[illegible]
[illegible]
[illegible] non [illegible]
[illegible] Praeterea [illegible]
[illegible] in [illegible] matrimonio
[illegible]
[illegible] in [illegible]

quia ea [illegible] ice nō tantū [illegible] et [illegible]
[illegible] eminentes [illegible] quo [illegible]
[illegible] gerget, [illegible] adtus [illegible]
in [illegible] cū lutia [illegible] cū franc. [illegible] valle
[illegible] presente lutia [illegible] sibi adiudicari. Et pro causis
[illegible] principali dubitari cōtingit, quibus discussis et
[illegible] que partes [illegible] beart [illegible]
[illegible] an [illegible] matrimonij vendrami
plene ac legitt. pbatus sit. 2dū an cōtractus per franc.m de valle
[illegible] plene pbatus sit 3m et ult. an data pbatione
utriusqz cōtractus, quis istoꝝ potior sit, et sic adiudicanda veniat
lutia ipa in uxorē. et pcedendo cōclusiue, rotūdo ore dicit
cōtractū vedrami sufficienter et legitt. pbatū ee, et istud habet
per dpone d. catherine ux. silvestri d roseis, quequidem sup capitulo
vedrami recte dponit, de ɔtractu inito, inter vedramū et lutiam
quicquidem interrogata a dcā teste, an vellet accipe in maritū ve-
dramū ibidem pntem iuxta pcepta s. mris ecclie et ita illū acceptaret
rndit qz sic, et vice versa interrogatus vedramus ab eadem an
vellet accipe lutiā in ux. iux pcepta s. mris eccliē et s. et ita
illā accipet, simit rndit q sic, dponēdo d ano, die, loco, et [illegible]
loci, ex quo dat. per dictū et attonem ttis pmissi cōtractū mi ma
nij rite et legitt. factū pbatū esse, et istud idē cōpbat et affirmat
Joēs q. petri d. roseo, ita q. fatendū ē d necessitate, per attones
pdcoꝝ duoꝝ ttium plene pbatū esse cōtractū matrimonij inter lutiā
et vedramū, monit. [illegible] in ore duoꝝ iux pceptū dnī stabit
oē verbū, et lz cōtra istos per ptē diversa multimod opponat
inferius tn salvabut, et opponēs cōtra eos et eoꝝ quelibet [illegible]
d medio tolleget. ita q. nullus dubitationis locus relinquet, quin
cōtractus vedrami dicat plene pbatus: omittēdo cōfessione ip-
sius lutie, et hoc roibz et causis inferius adducen. Deveni-
endo ad 2m. an cōtractus franc. d valle in mediū adducti
simit pbat sit, rndetur nō ee plene pbatū lz sup hoc uniformi
dponēr et attestari videant, guarnerius d guarnerijs et michael
faber sup 4to. capo pris cōtrarie. alr quoꝝ dponit d [illegible] formaliter
cōtractus, alter vero v3 michael nullū vbū d cōtractu tunc celebrato

sed tm̃ de cōfirmatione pr̃si cōtract᷒ ...
multū ē aduertēda cū ağat de duplici ... quoꝝ ...
tine ac clādestine uidetur cōtractū, ut Indicat ...
na q latebat penes mē ī una cū michae ... cōtr...
uocati ab ipso ... de ualle ... acta ...
arguit cōtra franc. quiꝗ cui bona male agit ...
... impossibilit. ... ē illa ... nulla dicta
... lutiā et alias ... in eo ...
dicat, ... pred... neꝗ aliq ... ex quibꝫ ...
... nō caret ... , quīmo ... magis ...
cū uerosimilia ... , ... in sit ... et ...
ad ... hoc militaret cōtra uē... et eius Jura ut ...
Superest deuenire ad ... et in hoc ... multū ...
maduerteṙ, si n. fateri uelimus de utroꝗ cōtractu cū lutia
cōstar, uidendū est quis istoꝝ potior sit, et ... et ...
Iudicanda sit ipsa lutia. Et quidm̃ Inspectis articulis ...
necnō pbationis superinde receptis, clara et aptã colliget ...
... de q sup. cōtract᷒ n. uendrami dr celebrat᷒ de anno
lapso 1549: de mense ... in die s.ti martini. ut in articulis ...
et pbatū fuit ut s. cōtract᷒ uero franc. de ualle dr celebrat᷒
... pntis anni 1550. die 20. dc̄ mensis. quo casu ...
tpum distinctione, succedit ... potior in ...
diceret ꝗ Immo pte francisci dr cōtractū fuisse celebratū ...
s.ti andree de āno 1548. et sic ... cōtract᷒ ...
istud nō ēē in aliq̄ cōsideratione, cū nullo pacto ...
et paria sint ... dicere, et nō pbare ... dicere, et taciter
cōplicant ... apparere, ex eo q lutia pluribꝫ et diuersis
fessa fuit cōtractū ipm̃ cū franc. ut respōnit ...
... Joanna filia ... adhuc ... costar ...
tes legittimos et ydoneos de cōfessione p dca. cū altera ...
... ut in pcessu, altera uero filia ... in ...
cōtrarie, quīꝗ dm̃ certo ... cōtracta ... matrimonij ...
uenit ceneta ad domū ... uedrami, cū ... ut iret ...
p ... mane lutie, ad quē locū ... se cōtulit ...
... eruario de laudādo testem quoddā titiani ...
diate ... : quā rē cū fuiss... uendramus ...
... cū pre et patruo ... q ...

[illegible] oper [illegible] [illegible] et hoc unda alia de causa
nisi [illegible] [illegible] sequit. po[illegible] [illegible] ista pet acc[illegible]
[illegible] [illegible], et [illegible] [illegible] et pfecto si ne [illegible]
laudas, et [illegible] put fuerat [illegible] [illegible] liberu q lis alia
[illegible] igr [illegible] [illegible] [illegible]. Dato tn sine ne
[illegible] [illegible] cit, art [illegible] cofessione [illegible], adhuc rndet
[illegible] ne [illegible], cu qua [illegible] fuit ex sud.m [illegible]
[illegible] absq [illegible] ex alio cu asti[illegible] it in casu [illegible] ma
[illegible] put e asur [illegible], q cofessio coniugu nini preiudicat
[illegible] [illegible] oneniens et absurdu, a mulieri ex duobus
maritis liceret accipe que mallet q[illegible] no e, igr et q
[illegible] est [illegible] ad solutione oppoitum [illegible] tibi uecrami,
quo fco aptiss.e [illegible] ptes D. [illegible] [illegible] et [illegible] [illegible]iando
ac [illegible]nuntiando p uendramo, eidem adiudican lutia, no obsta
te odiscione franc.i [illegible]alle cu expri. et deueniendo ad oppones
factas p D. catharine, ex eo q sit nouerca uedrami et lutie
[illegible] casu no pbat ptim in casu duplicis mrimonij, ut cu fuit
mediatrix istius cotractus, eu de affectans, quia [illegible] [illegible]
[illegible] lutia e, manibus comilitonis, et cu eucaristia no
sumpsent: quibus audacter rndet, et soluit, cu apli iuris sit
matrem in casu mrimonij admitti p filia in ttem, tato magis
nouerca p pruigno, que minus diliger et amar presumitur
igr oppositio nulla e. similr q fuit mediatrix nihil est, stante
eo q ner dici no pot psenecta, qui prio accessit, et huci
grm tale eff.m exercet, qd quidem in casu nro lode abest pro
omitto q dici posset, q et si uere dici posset psene[illegible]
p [illegible] neritate dubio pcul admitteret, ut e d mete omi
scribentiu: et tato magis in casu nro ubi tractat de [illegible]
aie et roe uita [illegible] adulteriu, qd seqret, qn lutia copula
ret franc.o [illegible]alle. igr similr obicitur raptus nihil e, qui cadr
no pot in muliere imbecille et simplice, q cu silencio committedus
erat, insimul cu alijs fraudis et no militatibus: ad illud q no sum
pserit eucaristia multis modis rndet et soluit, p. quia nullo
pacto dici pot D. catherina incurisse excommunicatione, cu
fuit cofessa peccata sua, et d cosilio cofessarij se abstinuerit
ut [illegible] eius [illegible] in sud.o pduota clare legit: donec eius mea

tragluor .. eret mentus n. est se abstiner a magna ... iux cōsiliū aplī, qui n. māducat et bibit indigne judiciū sibi ducat et bibit, hinc est q. fcā pbatione in ipsius pfata ... mens ... [illegible] ... jur dici nō potuit eandm incurrisse excommunicatione aliqua et eo magis cū nulla pcessit can. monitio put requirit, ... si Indurato corde ... et tūc ... eō fcō excommunicata uere dici potuisset, et nō alr aut... mō iam ōpositio d. cath. hoc modo ōfesata ualida ē ... similr ... et solūt oppo fca jō ōroseo, q ē ... uidet ... hoc ipsū ōpelli a ttimonio in ... monialis ...

Nō omitto q. ps diuersa conata fuit opponere ... d. catherine ... ōminata fuit lutie ... ei, ... et ... frane ... q. ... duas margaritas examinari fecit ... domo ... q. ... paru discordant et uariant, ut in eaz ... altera ... uerba ... dita fuisse ... cath. in uilla ... corbanes ... sua, et erga ipsā lutiā, dū ... ipsa ... in coquina et ... sub portica, altera uero margarita ōponit uerba ipsa ... erao ipsas testes et q. lutia ... ad parecelli ... et ... in camera supiori, contra id ... altera ... in merito jur nihil pbant, et ex pmissis ... partes d. ... for et ... in suriando ... mō, nō obstare calūniosa ... frane ... ... et ... suffragari pot ... copula, ... istud nō ... [margin: ipso negatū p lutiā] ... q. copula nō facit matrimoniū et eo magis ... ... stare ... lutie que nullo mō uult frane ... et aduerter ... quot tristes exitus parere soleant ... et ... cōtētur ... omissa aliqua ... q. d. ... ad ... uedrami, cōfisus ... bono iur suo ... integritate B. D. ... ut ...

[illegible]

[illegible] Matrimonii

[illegible]

[illegible] sponsa [illegible]

[illegible]

[illegible] commun[illegible] [illegible]

[illegible] simul[illegible] [illegible]

[illegible] quando [illegible] tractatus [illegible]

[illegible] maxime [illegible] comparuit [illegible]

[illegible] combin[illegible] et [illegible] dicti [illegible] Ioannis [illegible]

pauli [illegible] capi[illegible] dicens [illegible] in [illegible] sponsalia

accessit cum [illegible] francisco ad domum [illegible] et [illegible]

conclusit cum dicto [illegible] francisco [illegible]

dicto francisco [illegible] [illegible] consentiente [illegible]

[illegible]

[illegible] quia sponsalia fuerunt contracta [illegible]

[illegible] et [illegible] reclamantibus [illegible]

[illegible] reg. [illegible] qui tacet. de reg. iur. li. vi. [illegible] gl. in [illegible]

[illegible] consensisse. [illegible] verbo [illegible] ff [illegible]

[illegible] convenerunt [illegible] matrimonium [illegible]

contrahendo [illegible] ut [illegible]

[illegible] matrimonij contrahendi [illegible]

et quando agitur de matrimonio contrahendo [illegible]

parens in futurum tunc orabitur matrimonium de presenti [illegible]

[illegible] verba [illegible] [illegible] a[illegible]

[illegible] atramen [illegible]

ante verborum [illegible] [illegible]

[illegible] educunt matrimonium de presenti [illegible]

[illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] s. franciscus de [illegible] s marcus [illegible]

[illegible]

in [illegible] tamquam [illegible] [illegible] [illegible] [illegible]

[illegible] s. ioannis [illegible] s marcus

[illegible] de [illegible] [illegible] dicunt glo. [illegible]

[illegible] text [illegible] a. si [illegible]

[illegible] contrahens matrimonium

[illegible] actibus [illegible] [illegible]

[illegible] ad [illegible] [illegible] [illegible]

recipiunt [illegible] domo [illegible] [illegible]

[illegible]

[illegible] s. ioannis [illegible]

quamus [illegible] dicit [illegible] in [illegible] [illegible]

[illegible] qui [illegible]

[illegible] ex [illegible] que [illegible]

[illegible]

[illegible]

[illegible] bal. [illegible]

[illegible]

[illegible]

[illegible] ibus [illegible]

[illegible] hieronimi [illegible] quarto [illegible] attestat dicens [illegible]
[illegible] plures [illegible]
[illegible] dicendo [illegible] et alijs [illegible]
[illegible] dicendo [illegible]
[illegible] ac matrimonio contracto, et [illegible]
debat [illegible] ipsius [illegible]
[illegible] eius uxori. ipsa Emilia [illegible]
[illegible] tetigit manum et [illegible] dicens
[illegible] dicta Emilia cum pluribus [illegible]
matrimonio contracto cum dicto francisco. [illegible]
[illegible] Semiglem [illegible]
Bart. [illegible] consulto [illegible]
[illegible] sing. 202. [illegible]
[illegible] vol. [illegible]
[illegible] Addit [illegible]
[illegible] qui [illegible]
[illegible] Jacob [illegible]
[illegible] balb. [illegible]
[illegible] qui [illegible]
[illegible]
faciunt [illegible]
[illegible]
[illegible] c. bone [illegible]
Respondit [illegible]
[illegible] omnibus [illegible]
[illegible]
[illegible]
[illegible]
[illegible] no. 20 [illegible] relert [illegible]
[illegible] col. 4. vol. [illegible]

[illegible] dicit q [illegible]

[illegible] nes p ane [illegible]

[illegible] nol. [illegible] Inno [illegible]

[illegible] de [illegible] facit

[illegible]

[illegible] § [illegible]

[illegible]

minori § [illegible] ff. de [illegible]

[illegible] in [illegible]

[illegible] refert et [illegible]

[illegible] col. 2. [illegible]

[illegible]

[illegible] qui [illegible]

[illegible]

C. de [illegible] Consulunt [illegible]

[illegible]

[illegible] sup [illegible]

[illegible] in alijs [illegible]

[illegible] semiplena probationem et dicit

[illegible] § [illegible] glo. [illegible]

ff. de [illegible] minori [illegible]

Panor. [illegible] 108 [illegible]

[illegible] dicit [illegible] de notorijs

[illegible] ij col. [illegible] matrimonia

et dicit [illegible] Ext. de [illegible]

[illegible]

[illegible] Matrimonia [illegible]

[illegible] legitimi [illegible]

[illegible] dicto [illegible]

Nec obstat q̄ dicit p̄ dictum [illegible] q̄ pn̄s [illegible] matrimonio [illegible] in [illegible] nō possit [illegible]
[illegible] contrarius [illegible]
[illegible]
aliā verba nisi [illegible]
interrogauit [illegible]
in [illegible]
[illegible] interrogasse [illegible] suo [illegible]
dessinit, et cum dicto d. Angeli videt̄ concordare [illegible]
Jo. de sancto saluatore productus [illegible] eius [illegible]
q̄ nō audiuisse alia verba nisi descripta in instrumento [illegible]
et q̄ partes intendebat contrahere matrimonium in [illegible]
[illegible] termino apposito in instrumento, et quando testes [illegible]
contrarij testimonium eorum nō valet iij. q. ix. c. nihilominus
[illegible] c. h. cum [illegible] Jo. andre. et [illegible]
in [illegible] de testi. [illegible] in [illegible]
causa et [illegible] vol. vii. [illegible]
[illegible] ex [illegible]
[illegible] c. imperiali. [illegible]
accedit ad [illegible] q. d. Angelus [illegible] tabellio, [illegible]
[illegible] et tabellioni magis creditur in [illegible]
q̄ alijs nō tabellionibus [illegible]
[illegible] in aut. de [illegible] baldo [illegible]
[illegible] quos [illegible]
in [illegible] de testi. Quod Responsetur q̄ [illegible]
contrarius [illegible] matrimonio [illegible]
dicta [illegible] in eius [illegible]
verba [illegible] in instrumento [illegible]
[illegible] nō [illegible]

verba descripta in scriptura [illegible] q uoll [illegible] certe [illegible]
[illegible] usq quo non [illegible] a domo [illegible]
[illegible] ut [illegible] rebus [illegible]
reducendi ad [illegible]
[illegible] de test. § [illegible] et si dicat [illegible]
[illegible] alijs [illegible] dicit q [illegible]
[illegible] contra [illegible] timore [illegible]
[illegible] hoc non excludit quin [illegible]
[illegible] matrimonium [illegible]
[illegible] natales [illegible] de [illegible]
q [illegible] [illegible]
[illegible] testimonia
criminosis [illegible]
[illegible]
[illegible] de [illegible] § [illegible] quado
[illegible] contra matrimonium [illegible]
[illegible] maiores. glo. [illegible] de [illegible]
Ale. [illegible]
notario contra [illegible]
descriptum [illegible] acta uerba [illegible]
[illegible]
[illegible]
[illegible] consilio [illegible]
[illegible] § [illegible]
[illegible] recalit [illegible]
[illegible]
[illegible] propter inimicitias [illegible]
[illegible] ex parte [illegible] quia [illegible]
[illegible]
D. Angeli de [illegible] notarii [illegible] Ad dictū
[illegible]
[illegible]

[illegible] [illegible] [illegible] unus [illegible]

[illegible] et [illegible] quando [illegible]

nisi [illegible] enim maior et dignior [illegible]

[illegible]

pluribus contradicit, et inde talis contradictio non obstat

unius, neque nullius [illegible] spec. [illegible] §. testis [illegible]

[illegible] opponendo [illegible] [illegible] matrimonium nec

nec tollunt xxxiij. q. ij [illegible] admonere. et in hoc

dici esse cuius [illegible], quia [illegible] soluta [illegible]

matrimonio [illegible]. sed ponendo quod [illegible] qui

[illegible] et non contrahit [illegible] dici [illegible]

sic quod sumus in [illegible] numero; quando plures [illegible]

contradicunt dicit nunc recurrendum esse ad autoritatem [illegible],

ad verisimiliora, tertio ad multitudinem [illegible]

consideret autoritas testium, [illegible] testes pro matrimonio

[illegible] legitima [illegible]

[illegible]

et [illegible] pariter [illegible] omnibus [illegible]

[illegible] spec. de te. §. j. et quod [illegible]

[illegible] admissibilis [illegible] testificandum [illegible]

[illegible] quae hic non [illegible], Nec obstat quod [illegible]

et magis [illegible] quia [illegible]

[illegible]

sunt plures numero, [illegible] verisimiliora recurrendum

pro matrimonio [illegible] debent [illegible] verisimiliora deponunt

[illegible]

[illegible] ms [illegible] [illegible] [illegible]
[illegible] in contrarium sunt duo quorum unus [illegible]
[illegible] Verius magis credendum [illegible]
[illegible] ut de pomuz. et alij negat, et sunt credib[illegible]
[illegible] negationes. Alvar et fely. i. d. c. in rebus
aliis primo. in [illegible] hac. de [illegible] dicunt quod [illegible]
[illegible] permissius quia [illegible] Bal.
in [illegible] aliqui testium [illegible]. Ad id quod dicit quoniam si
[illegible] cadem parte producuntur [illegible]
[illegible] ab eadem parte producti si contrariaverint non debent valere [illegible]
dit secundum glo. i. d. c. [illegible] et i d. l. [illegible]
i. d. [illegible] de contrarietate testium, quod sibi imputandum [illegible]
produxit [illegible] [illegible] potest providere quibus [illegible]
sibi magis exprimat. [illegible] in productione [illegible]
potest providere, [illegible] quid testes sint dicturi. Non
[illegible] si dicatur quod [illegible] permissus de [illegible] recipere
super eisdem capitulis post publicatas attestationes. et testes [illegible]
debent recipi publicatis attestationibus [redacted] §. quia vero.
in [illegible] de testi. [illegible]
[illegible] matrimonii post publicatas attestationes [illegible]
alij testes super eisdem capitulis, recipi [illegible] c. [illegible]
de [illegible]. Abb. [illegible]
Ultimo non obstat quod videatur [illegible]
[illegible] ut [illegible] et [illegible]
[illegible] quia id [illegible] responsio [illegible]
[illegible] causa in dicti [illegible]
[illegible] quod dicit id [illegible] ab ipso [illegible]
[illegible]
[illegible] non possit [illegible]
[illegible] matrimonium [illegible] ipsa [illegible]

uis et cupiant reuerti in regnum. l. nisi natales.
Et ex his clarissime apparet dicendum quod D. Emilia [illegible]
esse in aliquo plenissimam probationem matrimonij, et [illegible]
[illegible] esse pro matrimonio. et eo magis quia causa
[illegible] ornalis est fauorabilis ut in dubio [illegible] pro
[illegible]. [illegible] et c. [illegible] de rescind. que uim
[illegible]. [illegible] c. litteris. de spons. et notat in [illegible] c. cuius
[illegible]. et l. in ambiguis ff. de reg. iur. c. uidet. qui
[illegible] c. inuenis. de spons. [illegible] in summa. [illegible]
q. et sup. quibus. Et quatenus R.do D. Vic.o non
[illegible] in pleno contrarie de matrimonio (licet plenissime et luce
clarius constet) non est dubium iuramentum suppletorium [illegible]
esse actori deferendum, nam in causa matrimoniali (licet sit [illegible]
magni praeiudicij) deferri debet secundum Abb. in c. mulieri
de iureiur. Hos. in summa. C. de reb. cred. uers. in [illegible]
[illegible] creationis. maxime quando est plus quam semiplena
Pau. de cast. et alex. in l. iij. ff. de iureiur. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

Iter. matrimon

Camillus de [illegible]

in xpo.

Illumina dne tenebras meas.

R.de D. … ierie: In causa matrimoniali vertente … Gasparem q. do-
minici dicti gosit de urbe … et ameliorum agentem ex una;
et joanna q. petri de … tercio … se …
ex altera: dubio … teneo partes R. d. v. fore et esse in iudicando
et sententiando pro matrimonio et ad favorem dicti gasparis et …
in eius libello: pro cuius conclusionis fundamento adduco primo illud
… bal. in c. cum causam de … quod … advocati semp
… dicit jas. in l. admonendi in 23. col. in … ff. de iureiur.
Sicut harmonia fit ex multis et diversis vocibus …
ita diversis presumptionibus indiciis et adminiculis. quia iudex …
applicare animum ad unam speciem probationis tantum: sed debet omnia et
singula in processu deducta optime considerare et examinare … l.
ij. et ibi glo. bar. et jas. C. de edendo. cum iudex debeat laborare … veritatem
inquirendam: c. iudicantem. xxx. q. v. et veritas … magis
… in … et in c. … xxx v. q. ix. que allegat glo. ma-
gis … de fid. instru. Adducitur … illa …
et communis omnium scribentium conclusio … probationem
… duas semiplenas probationes …
… glo. … l. ij. … in verbo … ff. de … ubi
albe. in § fi. ad fin. dicit … ita communiter teneri et servari: et est
glo. in l. pa. in verbo … C. qui … bar. in l. admonendi
ff. de iureiur. … col. vers. his … duas semiplenas
probationes. spec. in tit. de … § probatur. vers. … bal. in l. …
§ item … ff. de … et in l. 2a. C. quorum appel. non recipi. et in
… rogati C. de test. et in l. unica. C. de confes. et in l. si quis et arg.
torijs. § pa. ff. de … bal. … 222. pa. … alex. de imo. … 19. et 65.
2a. col. et … jas. in lectura dicte l. admonendi: in 20a …
vers. … bar. et … in repet. … col. 92 in
vers. visis et plene examinatis his que semiplenam probationem faciunt: ubi …
… tractat totam hanc materiam ut videri potest … omnibus.

Adducit 3º. illa communis omnium doctorum sententia: quod licet regulariter desideretur iuramentum in supplementum probationis in causis … in specie in causa matrimonij et aliis defectu iuramento esse plusquam semiplene probatum … quia ultra … probatione esset aliqua presumptio seu aliquod … ex quibus illa semiplena probatio esset continuata. … l. ait praetor et in l. admonendi ff. de iureiur. in xxxi … col. 122 2ª. col. … visa prolixa … in 3 col. … col. … in causa … hoc est in simili glo. … in c. … in glo …

Ias. in d. l. ait praetor in 4. col. vers. ex illa limitatione admonendi in lectura col. 29. vers. Limita omnes istas casus rep.ª col. ~~…~~ communia … vers. Limita omnes istos casus dum dixi quod istud iuramentum … accumulat ad quem me remitto brevitatis causa.

Adducit 4º. illa indubitata iuris decisio quod licet regulariter in … actu probando requirantur legitime et perfecte probationes … in causa tamen matrimoniali favore matrimonij admittuntur probationes … et imperfecte … non ex forma iuris parentes … simile filiorum … casus legis in l. parentes. C. de testi. et … matrimonij ad favorem et quod matrimonio admittuntur … idonei … testibus. … est in c. super eo el 2º. de testi. et in c. … accus. poss. sicut in criminalibus ad probanda … testes domestici et familiares qui … suspecti … fuit sing. … post Hos. in … de Inquisitionibus. § … nunquid etc. quod refert … de … in cons. 59. … sicut … col. … et Ias. in … ff. de iureiur. … col. vers. … singulariter limita … dicit quod in his que de sui natura … probationes lex … illis probationibus etiam imperfectis … idoneos quae haberi possunt. … in l. ij. § … ff. de aqua pluvia … Alex. in cons. 166. … animadversis. in v. col. Ias. in dicta … col. vers. secundo limita dicta regula) … egregius.

His sic premissis, descendendo ad casum nostrum dico …

[illegible] ex interlocutoriis. quia testes omnes deponunt dictam et subsequenter
de matrimonio contracto: ut supra s. q. iteravit de verbis quibus usus
Gaspar ben Zuana me voiu tuor et me piaceu per mio [illegible] marido
secondo [illegible] comanda la santa matre chiesa: et a [illegible] si mi
cum questo che me faciati domandare alli mei. subiungitur postea [illegible]
[illegible] et ulli Gasparo respose [illegible] et [illegible] per mia [illegible]
[illegible] comanda la santa matre chiesa: et cussi se [illegible]
[illegible] quod fuit veri et puri matrimonii signum absque eo quod dicta Joanna
repeteret illa verba cum questo pacto che me faciati domandar alli mei: ita quod
ipsa Joanna [illegible] ab illis verbis quia [illegible] si advertisset animum
perseverandi in illis verbis non tetigisset manum ipsi Gaspari sic simpliciter
in signum veri contracti matrimonii: et magis subiungendo illa verba
sub vinculo iuramenti per que manifeste constat intentionis firme et
constantis sue fuisse accipere in maritum ipsum Gasparem: quod quidem
iuramentum cum servari possit sine interitu salutis eterne procul dubio per
ipsam Joannam servandum est. c. cum contingat cum similibus de iureiur.
Et advertendum est quod per illa verba cum questo pacto che me faciate doman-
dar alli mei: non dicitur esse apposita aliqua conditio impediente matrimo-
nium: sicut si dixisset cum questo pacto che li mei siano contenti quo casu
matrimonium videretur dependere a consensu parentum: ita quod illa verba dicta
per ipsam Joannam non sunt attenda in aliqua consideratione et ab eis videtur
recessisse ut supra dictum est et ad hoc est optimus tex. in c. per tuas. ibi pro
matrimonio est presumendum quia videtur a conditione apposita re-
cessisse: de conditio. apposit. Ad aliud est et advertendum quod per [illegible]
[illegible] 3. [illegible] probatum est ipsa verba fuisse adimpleta quod essa Gaspara la fa-
cesse domandar avanti la morte del padre. nam in ultimis verbis sue
depositionis interrogatus de probatione [illegible] Io lo ho inteso da piu persone
da chi precise non me aricordo ne da chi la probatione habia comenzato sal-
vo da poi costoro lha fatta domandar: ergo illam fatta domandare quia
aliter probatione non potuisset habere initium: et ita est presumendum quia
nullibi constat quod parentes Joanne unquam viventes contradixerint et sic
viderentur consensisse ad quod facit tex. in d. c. per tuas. in fi. ibi
quia pater et patruus eius contradicere renuerunt: sunt ergo [illegible]
[illegible] [illegible] matrimonium

probatum est etiam matrimonium ex confessione Joanne que deponit [illegible] testis super 3° capitulo dum dicit La Zuana me ha ditto che l'ha prometto [illegible] in Stuana su una barcha concordat cum [illegible] teste [illegible]

Eandem confessionem geminatam fecit ipsa Joanna Q. Francisco [illegible] que ipse deponit super septimo capitulo subiungendo se andati a Cerida eh conmogneranno [illegible] intelligendo de ipsa Gaspar[illegible]

Eandem replicatam confessionem fecit ipsa Joanna D. Joanni [illegible] deponit che no sa ho [illegible] gaspare del [illegible] et io li detto alla fe [illegible] so si alla [illegible] alla fe: [illegible] no dir niente etc.

Ex licet predicte confessiones videantur probare [illegible] [illegible] et regularis [illegible] [illegible] [illegible] [illegible] [illegible] tamen quod [illegible] in [illegible] [illegible] sensualiter et favorabiliter [illegible] matrimonij cum probationes minus legitime et imperfecte [illegible] que supra dictum est. 2do respondet quod licet testes essent singulares quando deponunt per sensum corporis quia de audiens [illegible] in casu nostro quia audiverunt ipsam Joannam confitentem contractum matrimonium: non dicuntur esse singulares sed simul concurrentes [illegible] ut dicit Cyn. Bal. et Salic. in l. testium C. de testi. et Jas. in [illegible] in 3° colum. in vers. quarto limita ubi plura accumulat ad que referro. 3° respondet quod singularitas testium nunquam habet [illegible] testes tendunt ad eundem finem licet per varia media quia [illegible] quia omnes isti testes deponentes de confessione Joanne tendunt ad eundem probandi matrimonium ita declarat Bal. in rub. C. de [illegible] [illegible] et in repertorium de quibus in pe. coll. de ll. et Jas. in l. admonendi ff. de iure iur. in xi. coll. vers. [illegible] obstat [illegible] Bal. [illegible] [illegible] [illegible] quod [illegible] confessio plene [illegible] [illegible] [illegible] [illegible] [illegible] publicum instrumentum [illegible] [illegible] C. de confess. [illegible] C. de transac. cum ibi not. Ex quibus resultant [illegible] [illegible] [illegible] fuisse dictum matrimonium et plus quam plene. Pro confirmatione conclusionis accedat id quod deponunt 2us et ultimus testes [illegible] [illegible] ex parte Joanne fecisse nuntium Gaspare [illegible] [illegible] se [illegible] [illegible] Gaspare [illegible] [illegible] [illegible] suo marido et [illegible] ad ogni modo lei el voleva [illegible] [illegible] [illegible] volesse fastidio [illegible] quello [illegible] lei [illegible] havere questo la qual volea [illegible] [illegible] [illegible] quod est iudicium manifestum matrimonij inter eos contracti: Accedit [illegible] [illegible] [illegible] quod deponunt 1. 2. et 3. testis que viderunt Gasparem et Joannam [illegible] [illegible] duobus [illegible] [illegible] mutuo Amore rapti erant [illegible] [illegible]

ibant ad festa simul, saltabant et ad invicem loquebantur per plura, publice et secrete de matrimonio inter eos contrahendo, que omnia erant prelu-dia futuri matrimonij et ex quibus presumendum est matrimonium inter eos fuisse subsecutum: prout in veritate fuit et est. Accedat etiam id quod disponit c. tertius de presumptionibus, quod secundum aliquos facit plenam probationem vel saltem magis communem opinionem semiplenam, de quo no-bis. et omnes doc. in. l. de minore in § tormenta ff. de quest. Ex quibus omnibus simul coniunctis nulli animo est dubium quod dictum matri-monium est probatum et plusquam plene probatum. Verum quia ad abundantem cautelam que nunquam nocuit in parte causa probationis fuit deferendum iuramentum suppletorium probationis deferri dicto Gaspari R. D. V. id deffe-rat pro maiore corroboratione mentis sue et pro satisfactione ac debito iustitie: et his premissis verificatis adimmendo uos esse conuictus. iuris duo

Simon Saruonius I. V. doc. minimus
et R. D. V. deditiss.

[illegible] redemptoris [illegible] et [illegible]
[illegible] pretere [illegible] D. [illegible]
[illegible] et libellante [illegible] et [illegible]
[illegible] appellationem [illegible] ex altera [illegible] et
[illegible] latoris [illegible] legitime
[illegible] particulari [illegible] ne justitie [illegible]
[illegible] instrumenta [illegible] in [illegible]
[illegible] D. [illegible] dictum bap. [illegible]
ab observatione juditij et sic ab impetitione dicte D. benedicte
ad matrimonium inter ipsas absolvendo ab expensis justis de causa
quam sententiam eandem D. benedicta appellans coram ancho[illegible]
dixit nullam iniquam et [illegible] petens [illegible] per ipsam
appellatam et male per dictum R. D. vicarium judicatum cum condemnatione
expensarum ut per [illegible] judicantes melius et equius vider[illegible]
quequidem causa per supradictum Illustrissimum D. Episcopum mihi jur. consulto infrascripto
consulenda et decidenda comissa est
Ego igitur Matheus bethignolus Miles et jur. doct. tar. visa
[illegible] comissione ut supra facta viso et diligenter examinato processu
cause [illegible] cum attestationibus testium in eo examinatorum necnon sententia
super eo lata per prefatum R. D. vicarium ac etiam viso et discusso processu
cause appellationis cum subtilissimis attestationibus utriusque partis et aliis in
tur consideratis Christi redemptoris nostri suffragio repetito
a quo cuncta recta procedunt [illegible] dico consulo et decido ac
[illegible] sententiam predictam absolutoriam per antedictum D. vicarium latam
fuisse [illegible] equam et justam et ab ea per dictam D. benedictam
male fuisse appellatum et ideo consulo partes prefati Illustrissimi D. Episcopi
fore in pronuntiando et declarando male fuisse et esse appellatum et
provocatum parte et nomine dicte D. benedicte appellantis beneque per dictum D.
vicarium judicatum et [illegible] in judicando [illegible] D. ant. supius
nominatum et prefatam bap. [illegible] veniet legitimum matrimonium inter
ipsas nihilominus [illegible] causam [illegible] ab expensis absolvendo.

rsuacō tū ius ... ci petit ... bridce. ad per
iē dotari a ... Jo. bapt.[ta] occasione asserte ...

Et licet tutius et co[n]su[l]tius foret causas huius mea ...
tiere (ex. cons. ... et cano. in c. sicut de re iudi. ...
Jumus et ut in proverbio est) Illotis manibus ad hec ...
accessisse videar, perstringam breviis, quibus mot... ...
ita decidendi.

Et primo in nominis praeponendum est, pro in punto ... ...
matrimonio clandestine contracto, quod quidem matrimonium ...
abhorret et prohibet, cum matrimonii celebratio ...
... et cum solemnitatibus quibus in. in ...
et ... et per totum adeo q. matrimonia ... contracta ...
terina ut in d... ... et tradit host. in summa ...
clandest. desp. ... in pri. ...

Sed cum passim ... notum sit causas matrimoniales et ...
ecclesie contractas ceteri arduas graves et magni mome[n]ti
sunt criminales et liberales, ut in c. ... ...
cum similibus consequens est ut matrimonia clandestina ...
enarrationis gravissime. ... debeat et in eis ...
et idonei ac omni exceptione maiores, c. licet de testi. ...
et affinit. cum infinitis concord. ... exceptione maio...
... illi quibus nulla oppositio fieri pot ut dicit glo. singu...
... similibus ... item ... in ... idoneos

Hijs igitur sic praesuppositis operepretium est investigare quales ...
tiones pro anandamico bridicam ad probandum assertum matrimoni...
clandestinum deductum.

Inprimis etenim ipsa conatur probare intentionem suam ex ...
... eius ... et Jacobi dicte camille famuli ...
quadam extraiudiciali confessione ... Jo. vap.te ... confitebatur
... dicta d. bridia illam fuisse eius uxorem et prefecto ...
... non inveniet ... ...
... prætioni

[illegible] dcā assti mrimonij [illegible] cū plenā in [illegible] dcā assta
cōfessio patr. nō fuit emissa [illegible] se sed pp aliud cōst ne dcā
brīdcā vapularet et comiciaret a suis q̊ casu nō pbatur
mrimoniū [illegible] cod. inno. in c. illud de psump. et [illegible]
in aut. sigs in [illegible] C. de eden. ubi dicit q uerba enūtia
tiua mrimonij in pstro dotali nō pbāt mrimoniū in pīu
diciū alterius mrimo. ita rfert et [illegible] et. in cōs. [illegible]
col. [illegible] in [illegible] est de cōfessione aduertendū, et certū ē hoc
tractari de dirimendo 2.° mrimonio cū d. ant.ᵃ in [illegible] eatenus
cōtracti et carnali copula ɔsumati, p primū assertū mrimoniū
clādestine cōtractū de q̊ quidem mrimonio dcē d. ant.ᵉ et tpe
pme instātie suspicabat. et de eo ēt fuit in dcō p. pcessu
deductū tū p dpōnem unius ttis [illegible] p inhibitionē ema
natā ad instā dcē d. brīdcē cōtra dcum lo. vap.ᵃ ne cū an.
dcā d. ant.ᵃ mrimoniū cōtraheret et multomagis p dpōnē
d. Camille sororis ind dcē d. brīdcē de q̊ dm mrimoniū cū
fuit postea cōtrtū inducit psumptionem pmissionis fcē an.
dcē d. ant.ᵉ nā ex pnti psumit in pteritū et ista est ppe
psumptio iur. et d. iure ut ē in tex. notab cū ibi notat. in l.
siqui adulterij C. ad leg. Jul. de adult. tū et dcā assta
cōfessio et semiplene nō pbat quia nō fuit a dcā d. brī
dcā ut dr ibi pnte acceptata. ut de iur fieri dbuit dtr
sācitū ē dcam cōfessionē minime pjudicar cōfitēti ut
not. cyn. in l. p. in 6. q. C. d cōfess. et ibi expssius aly. in
in [illegible] opp: et Jdm saly. in l. iubemus C. d lit. cū et in l.
gerrātr in 6. q. C. d nō num. pecu. ubi rfert sepius e [illegible]
cōsuluisse, et ita tenuise dnum suū d. ricard. ita r [illegible]
et sept. d. alex in cōs. iii: in 4. col. in [illegible] ptera ista
est cōfessio n.° 7. in 3. uol: ubi latjme p multas actones
et rōnes dclarādo etimologiā huius [illegible] cōfessio. hāc
firmat cōclusionē. et p pdcā et cōsulunt d. frāc. Curt. in
cōs. 77: certū est [illegible] d. camilla soror dcē brīdcē et [illegible]

eius famulus nihil deponit [illegible] ptatione dicte
confessionis Immo dicta d. camilla asserit contra asserendo
predicte fuisse vlat non erga dictam d. [illegible] im sed contra
[illegible] dum dicat et Jo. bapta in [illegible] no la scile [illegible]
la e, la e mia moglier et sicut dicit [illegible] dict
Jo. bapta dixisse erga dictam d. camillam al sangue [illegible]
la no e mica trentina [illegible] i d ipsa Brid dicta [illegible]
mia moglier Accedat quod dicti [illegible] a d. camilla [illegible]
legitimi testes in puncto [illegible] dicta [illegible] et dicta
paris conditionis quia cum dictus Brid[ice] in suis [illegible]
domesticos et consanguineos esse legitimos testes [illegible]
monium non [illegible] confessione et assertione dicte d. Camille
d qua in 3. et 4. eius positione habet, et dicta d. camilla
in eius depone id fateri [illegible] Bridicam eius sororem
carnaliter cognitam ab ipso bapta certum est eidem d. camille
nullam fidem esse adhibendam ex hoc solo quod ipsa et alii
sanguinei dicte Bridice ~~cesent~~ videntur esse affecti, ut [illegible]
nisi istud habeat locum. [illegible] si non haberet effectum [illegible]
remaneret [illegible] suspectus [illegible] quod eius soror fuisset [illegible]
et corrupta a non suo viro, quod sine dubio cederet ad [illegible]
sororis, et [illegible] redderet in [illegible] conditionem deteriorem [illegible]
[illegible] bonus Iudex non debet arbitrari aliquo modo dictam [illegible]
esse Idoneam Item, quando et ubi datur paritas conditionis [illegible]
iudex arbitrarium est an admittantur parentes et consanguinei
ad testimonium. hec sunt formalia verba Aret. in cons. [illegible]
col. et 7. in [illegible] ost[endendo] et ex alio capite ubi [illegible]
ita tenente in tit. de test. in § p. [illegible] quarto fallit [illegible]
ibi [illegible] cum [illegible] et hec fortius procedunt in puncto cum ubi [illegible]
2o. matrimonio in facie ecclesie legitime contracto et [illegible]
carnale consumato et [illegible] secundo matrimonio [illegible]
pendente [illegible] tractabat. et ad predicta facit sing. [illegible]
in C. in [illegible] [illegible] in [illegible] familia [illegible] ubi dicit [illegible]
mestica id est illi quibus imperari potest [illegible] proprie [illegible]
nullo modo admittuntur in testem. aliis [illegible] id est [illegible]
distinctioni

distinctione affectionis ut [illegible] hoc contra eos [illegible]
no veri nec conducta et probatus est affectio supradicta [illegible]
mille quibus accedat [illegible] ad [illegible] andree d. [illegible] in caus
[illegible] conducta [illegible] n. 133. in p. parte 2a col. in
ver. 3. considerandum est, quia subtilissime in causa matrimonij [illegible]
preterea et ex alio dicta d. camilla ceteri non debet [illegible]
testis quam [illegible] eidem d. bride sine dicte d. camille
quare non [illegible] alios testes super assertam predictam confessione
[illegible] cum fuit ad hoc [illegible], ut ipsa asserit a dicto Jo. bapt.
[illegible] ut dicit ut adhiberet [illegible] testes, [illegible] succedit [illegible]
[illegible] quod quam potest imputari culpa quare alios testes non adhibent
non potest probari [illegible] domesticos seu consanguineos [illegible] not.
D. abb. [illegible] in c. [illegible] de test. ubi tenet quod quam sunt in po[illegible]
illorum de collegio adhibere alios testes non [illegible] quod possit probari
[illegible] illos de collegio ita refert et sequitur [illegible] in cons. 17. in 2.
et 3. col. inferens predictam conclusionem in causa matrimonij [illegible]
[illegible] ipse consilium [illegible] edidit recte procedit. quemadmodum et
in presenti causa [illegible] legittime inferri potest et debet cum fuit in po-
testate ut dictum est andree bride adhibere et vocari alios
testes et idem [illegible] ibidem in [illegible] in matrimonio [illegible]
mulieris probando. [illegible] dicta d. camilla non deposuit super actu
contracti matrimonij [illegible] [illegible] quidem actus solet in domo
mulieris [illegible] et [illegible] ipsa deponere [illegible] domestici testes in
[illegible] admittuntur loquuntur et ita intelligi debent de hijs que
fiunt in domo mulieris que de [illegible] possunt sciri [illegible]
domesticis domus, et ita procedit doctrina [illegible] in cons. 13.
in 5. col. in ver. de confessione est advertendum. et hic certum
est tractari de confessione extraiudiciali [illegible] parte [illegible] fieri
convenit ut in pluribus et [illegible] domum mulieris. quemadmodum
et ipsa d. bridea confessa fuit in sua 6. positione. quibus
accedat quod dicte asserte sponsi uti non verisimili minime est
credendum, ymo verisimile non est quod dicta d. camilla non adhibuisset
testes qui essent pater [illegible] confessioni andree Jo. bapt. si esset verum
[illegible] ipsa asserit eam fuisse ab eodem bapt. ad hoc [illegible]

ad medio dcoz testium ipsa posset salvare honore suo sororis et totius familie sue, ubi succedit trita jur. reg. no depone. tibi uerisimilia et negotio apta no [illegible] notab. in l. ob carmen §. si testes ff. de testi. et in l. 3. [illegible] eo. tit. et [illegible] in l. testium [illegible] de testi. et [illegible] sunt [illegible] et [illegible] de testi. et in c. licz causa de probatio [illegible] cit bal. in l. [illegible] in 3. col. [illegible] seru. fugit. [illegible] quecunque falsitatis imago, quod dcum refert et [illegible] plurib. consilijs et max. in cons. [illegible] in cap. [illegible] d. barthez facit quod dicit [illegible] de probatio[illegible] ueri [illegible] qui consonant [illegible] satis et uerisimi[illegible] finitis concord. studio breuitatis omissis. [illegible]

Nec hic in aliqua consideratione habenda est depo. Jac. fam[illegible] d. camille quia illa no caret falsitatis suspitione [illegible] dum et eodem morbo laborat ut depo. andree d. camille ex dca d. camille depone aptiss. deponit eam dixisse [illegible] intelligere inuisse dnum Jacm. fuisse presentem [illegible] per andream Jo. Bapta ut dr factum dum dicit el mio fameio batete li ne [si inel andar] et sentite il tutto. et sup interrogatorijs dicit molin. fu prte il mio fameio Jac. dices et in depone [illegible] se farà a aimar altri testimonij inferre nolens, quod [illegible] cies probatio [illegible] ea que fieret per eam. et ipsum Jac. [illegible] et presentes dce [illegible] cofessioni, et nihilominus [illegible] [illegible] fuit se cocordare cum dco andree d. camille sed [illegible] se fuisse abscoditum ab eis et sic no fuisse presentem neque cum dca d. camilla, licz sup interrogatorijs dicat se [illegible] referens tn se ad eius depone dices come ho dco [illegible] et nihilominus no fuit [illegible] et [illegible] [illegible] contra[illegible] nam qui latitat et est abscoditus a [illegible] no potest [illegible] cotradictum [illegible] agit, et hoc patet ad sesum et no [illegible] probatioe alia. unde ex uarietatib. et contradictionib. [illegible] dictum est quod ambo dci testes no probant sed et quod [illegible] aliquis eoz integer testis ita tenuit alex. in cons. 143. [illegible] incip. [illegible] [illegible] col. [illegible] medio ubi attat bal. in repetitio[illegible] de quib. in 22. col. [illegible] legi. cum multis alijs per eum [illegible]

[illegible] et in dco cos. [illegible] sup cotractu m[atri]monij, et de alio m[atri]monio infrigendo [illegible] ut in cau[sa] m[atrimoni]o quib[us] addat [illegible] ex abudanti q[uod] si verum eet illud q[uo]d deponit an[te]d[ictu]s Iac.s q[uod] d[ict]a d. camilla no potuit hre notitia de hijs que ipse deposuit, nisi de auditu ab eod[em] Iac.o et sic eu no potuisse ee cotestem cu ea, sicq[ue] ea quo ad d[ictu]m Iac.m deposuisse de auditu alieno. et p[er] consequens eius testimoniu esse nullius [illegible] l. testium C. de test. cu vulg. et simil. d[ict]um est d[e] dco Iac.o qui cu nullum habeat cotestem deponentem se fuisse in molendino abscondit[um], et p[er] eu deposita audivisse dr singularis et in no [illegible] [illegible] de test. et c. lz ex quada [illegible] co[n] [illegible] cu simil. p[re]terea e famulus an[te]dce d. camille affecte ut [illegible] e [illegible] alio et dco Iac.o nulla fides e adhibenda ut pote a veritate et animose deponentis ut vide dcam eius deponem intuenti liquet pot facit ad hoc tex. in l. 3. [illegible] ff. de test. declarat bal. in l. testium in 6. col. C. eod.

Nulla enim facit et attenta dicta confessio sup 3. positione p[er] d[ictu]m Io. bap.ta ut dr facta de eius contumatia in rndendo sntia B.di d. vicarij interveniente qm cu d[ictu]s Io. bap.ta no teneret de iur dce 3. positioni rndere, tu quia ipa continebat illud idem q[uo]d in p[re]cedenti p[er] eu negata continebat. tu et quia in ea fuit posita criminositas an[te]dci Io. bap.te certu est ea no potuisse haberi p[ro] cofessa, et sntiam super inde lata fuisse et ee ipo iur null[am], q[uo]d aut[em] simili positioni in p[re]us negata no sit rndendu, clare decidit spec. in tit.o de posi. [illegible] in [illegible] qui dcam coclusione p[er] multa iura q[ue] studio brevitatis hic no recedens, firmat, assignada eadem [illegible] quia negas et affirmas q[uo]d p[re]us rndendo cofessus e ut e [illegible] in reatu periurij incidit ut ibi p[er] eu, et q[uod] positioni criminose no sit rndendu tenet idem spec. in d. §. 7.o vers.o decimo nono et inaddit [illegible] bar. in l. §. in pen. col. cc. fi. C. de iur iur. [illegible] calu. dand. et tenet abb. in c. cu sup de cofess. in 4. et succol. in quib[us] [illegible] cocludit q[uod] qn aliqs no e de crimine infamat[us] no tenetur

positioni criminose rndet ~ in Cu sup dicto Jo. bap.ta no fuit et
dito asserto sponso satis legitime nominatus, consequens est ut
q. positioni ipse minime rndere tenetur, nec obstat doctrina
ad[ta] iudice D. Gadice in eius attoribus de lucta in § al
positio. in fin. hoc aut sciat ubi dicit q. lz no tenea
interrogationi ut positioni aversarij si tn rndent tenet
qm rndet illud forte procedre in positione vera no aut falsa
put est illa de qua agr stante pstim prestatione and
et fate et negatione eiusdem sup 2. 4. et 6.a positione
positum est de asserto mrimonio inter partes pdicas contracto
triplicatis negationibus de pndit deliberata uoluntas et
and Jo. bap.te assertu mrimonium pdictum negar sed
iux not. in l. balista ff. ad trebell. cu ceteris
et ualde differunt inter se confessionem et confessio facta
qui uere factum pprium cofitet no pot ptextu erroris
illa confessione, quia ille qui errat in iure in pbabili
no occurrit ut l. no fatet ff. de cofess. sed error in
equiparat erroi iuris ut l. regula ff. de iur. et fact. ignor
dit cu limitatione tradita p bar. in d. l. no fatet in
in pnti. forma una que, at cofessio ficta et tacita
surgit pp contumaciam no rndetis indistincte reuocari
bando omnium not. cano. et pstim Dd. in c. adhuc bea
postea. plat. in 3. col. in fin. et ad pdca notadu
bal. ita notante in l. 2. § quasi actor C. de iur. calu.
alijs p eu ibidem allis, et illud idem tenet D. pet. filip
in cos.o 49. pncip. elegater deductu e in 3 ad. uol.
Pterea inqsitio carat ubi dicit inter cetera q stante
contumax habeat p cofesso tn poterit contumax
tinebit pponendo re ante se habere lz appellatio no rescindat cofessio
et alia acta pbatoria dicens hanc fuisse doctrina bal. in l.
mu C. de parat. cu multis alijs ibidem p. eu ad.
no pot dici stante pstone and a Jo. bap.te superius
eu p cofesso habere debere et stante interlocutoria

✝ Bdus D. vicm quoniam ea censeri debet ipso jure nulla utpote lata contra jus legis seu constitutionis presertim cum in ea videatur expressus juris error tex. e in l. 2. C. quando prouo: non e necesse et ibi Bar. et Joan Bar. in l. cum prolatis ff. de re judi. et ibi paul. de cast. et per canonistas et presertim ... in c. pastoralis de re jud. presertim at in proposito cum ... protestationem andree Jo. bapte presertim andreas D. vic. fuit admonitus de iur. disponere et ille et suis premissis contra dictam protestationem interloquutus fuit procul dubio ddns e in eadem interloquutoria per illa que ... suis premissis fuisse expressum juris errorem s. quod lz dicta 3. positio contineat criminositatem nihilominus andream Jo. baptam teneri ad eius respondendum.

Succedit alia quantitas probationis in processu ipso deducta s. confessio andree Jo. bapte confitentis super 7. positione se credere famam aliquam esse de premissis hoc e de contractu matrimonii predicta et alijs in positionibus ipsis deductis super qua quidem confessione advocatus dicte d. benedicte magnam vim facere ... in suis subtilissimis et apparentibus allegationibus dicens dictione illa aliquam capi debere sed [illegible] ut verificetur aliquam in minimo et aliam in toto et quod cum fama sit quid incorporale et sit indivisibile ideo dictio aliqua debet referri ad totum dictum capitulum et sic ad confessionem fame per se sumptam juxta continentiam dicte positionis. ... diceret vana vox populi per ... andream D. advocatum ... ad que breviter respondetur quod dicta 7. positio continet formam et modum quod fama ipsa legitime probari debeat, sed quod erat publica vox et fama et coniungendo ... intelligit in dicto loco ... et alijs locis circumvicinis per maiorem partem hominum dictorum locorum et necessarium e quod testes lz non interrogati nominent particulariter aliquas personas ex illis a quibus audierint iuxta not. per Inno. in c. quanto et an el 2do de accusa. per Bar. in l. de minor. q. plurimum ff. de quaest. et per D. alb. in c. cum causam de testi. adeo quod si testes fuisset super dicto 7. articulo examinati et deponeret nil aliud scire nisi quod esse aliquam famam de premissis procul dubio ddns ... ex eius ... non minime fuisse legitime probatam famam ex ... deductis

Illud item q° dom. c. cesen' debet de supradca cofessione cu a parte p...
cedat probationes p testes legitt. fce et confessiones adversarii
n. sunt gnia probation. s. cofessio partis, publ. documenta, et a...
nec luce meridiana clarior l. nix tex. in l. sciant cuncti
cu ibi notatis. nec premiss. inc refinant deducta p te ...
bondee, qm si ea recte inspiciant faciunt ad favorem
andea b. bapte na d. Jas. in l. ff. c. de pact. p ad. ...
gati in 3. col. in fin. tenet cotrarium dicit q. illa dictio aliq...
indistincte verificat in qlibet re minima du dicit ...
l. lex. si usq C de reuo. dona. du dicit ut aliqua p te
locu e in qlibet r minima donata et lz ipe arguet
soluedo certu gtrarium resultans ex l. gallus §. in oibus in
ex alia p te ff. de lib. et posth. dicat illa uerba in dca
oibus posita intelligi posse i. legitima. p gbiecta mam ...
ominus ipe eiusmodi rusione no hbet p legitt. et ...
ees q in ueritate no e, tn ea mo d atr in dere, adduc...
eundem Jas. in l. eu qui de jurisd. omn. jud. ubi dicit d...
dictiones aliquas, ee q qn adijcit alicui termino p reputat ...
et facit de quoq minimo intelligi, id qd p pe gvenit ...
q agit. na, in hoc illa dictio aliqua, p confessione ...
fuit adiecta termino fame in dca positione dclarante ...
facit imutare eius nam et sic intelligi debet de minima ...
que p pe fama dici no pot, sed pp pe i. rumor et ...
populi, q attendi no debet iux l. decurionu et ibi ...
tim in glo. c. de pen. et et si codictret stricta ma...
idem dum e gstim e superius deduct s, quia id pbatur ...
legitt. fame no sufficit q dicat aliqua fama ee ...
infragat q p eu etm adi. dr fama ipam ee quid ...
rale et sic indiuisibile, qm videt q lz incorporalia ...
diuidant. tn in intellectu diuisione et distinctione et ...
magis interpretatione recipiunt, una gcluendu e suprad...
bapta cofitendo aliqua fama ee d premiss et negado ...
in dco 7. capo eu intelle isse d fama no legit. plena ...
p pe ...

ipse fama dici non potest et hec sunt etiam mediocriter in iure periti notissima.

Ex premissis igitur sic ut supra dispositis sine aliqua dubitatione concludendum est ex assertis attestationibus D. Camille et Jacobi et confessione confratris Io. Baptiste super 7a positione et ex renunciatione illius negantis respondere super 3a positione et sententia Rdi. D. Vicarii superius lata non solum plenam verum etiam nec semiplenam probationem dicti asserti matrimonii esse deductam. Quandoquidem si esset semiplena probatio licet legitima extaret non tamen in causa matrimoniali ad supplementum illius eidem D. Brandice deferendum esset iuramentum per singulariter not. per Alex. in suis consiliis attento cons. 143: Incip. quoniam Abunde in volum. in prima col. in versu nam licet in civilibus quandoque ergo deci. in cons. 133: similiter suis Consiliis attento ubi per multas rationes et quamplurimas auctoritates hanc firmat conclusionem quam clarissime de iure esse attestatur, quia in huiusmodi causis matrimonialibus agitur animi de statu hominis cum per hoc servitus in ipso constituatur, dicens hec esse formalia verba glo. in c. [illegible] mulieri de iure iur. quam Docto. communiter sequuntur ut ibi per eum qui doctissime et elegantissime loquitur.

Cetera parte ipsius D. Brandice in processu deducta sunt frivola et nullam presumptionem inferunt ad matrimonium prout est amor pecunia eidem Bapte mutuata, colloquium et alia huiusmodi que huiusmodi qualitates sunt ambigue et ad plura trahibiles ut declarant Abb. et alii Canon. tradunt in c. illud de presump. ubi amplius dicitur quod ista adminicula et presumptiones scilicet invitatio tractatus, oblatio anuli et similia non probant matrimonium presumptum nisi probetur diutina cohabitatio viri et mulieris salte[m] x annorum et currat fama viciniae non solum de matrimonio sed et de tractatibus coniugalibus, multo minus quod dd. et qualitates supradicte in presenti processu deductas minime esse deveri in consideratione aliqua et minus considerari debet asserte sponsalis patri et dictis testis s. M. Cami. et eius [illegible] quod licet essent contestes nihil probant pro matrimonio si recte eorum dicta inspiciantur, verum ac etiam super hoc insistatur dicta testes non adinvicem non solum varii verum et

mtrimonij qm dca d. camilla in dca eius depone ter dclarat quemadm
num q d. dans Io. bapta ei dixerat se eidem bndce promisisse et accipere
uxore. h d. dans in camillus atr dicat a rcdo dum Io. bapt. dixisse
puelle q haberet pacientia, quia ille debet ei oxnaturas qd ei prom
que verba sunt ambigua valde, et ambigua positio nd s quat
ut l. mirem et l. neq natales et l. ad probatione
hoc C. um cogn: et c. siptria d pbat: cu g. dca tres sint in
cntrarij nulla fides eis e adhibeda iuxta superius allegata iura cond
camille et lucobi, addo q neutru dum esse valet ut hic p
cos. 142. in cap. qm absurd, nec hic tradita du e d reducedo
dia qm ubi duo sunt tm ttes nd cttes nd reducunt ad
debet ut not. idem Alex. in loco superius allto p multa iura qui
motri

Postremo ne mitada quia q hicg nd capitulat nd aliq eidem d. bn
cofessio supedu Io. bapte sup 2a positione qm cu ipe negauit
d aliq re eidem bndce promisisse Consequis e ut intelligat e
se cetera dia nd Contrahendu mrimoniu apta quemadmodu e
extreme extere et alia eius mos, et h apparet q dans Io.
dixisset dcam puella, et ipe vociferari cepisset et postea cessa
dubio presumendu eet dum Io. bapta eam dimisisse et ob id
nd vociferasse nd aut q ipa vociferare cesasset ex eo q d.
pdans mrimoniu cu ea contraxit prius contraxisse sep. et cu eius
negauit et pstim sup. dia 2a positioe, sed ut dum, e hec
talis frivole rones et modici momenti

Concludo igr ut in initio coclusi p tes Rmi et Illmi d. Epi
fore in pronuntiado mdo et forma quia supra expssi

Laus deo Redemptori nro.

Ut s. p me coclusu et cosultu e ita arbitror
Mattheus bethignolus Miles et huic cosultui
me subscripsi et meo solito sigillo firmaui. recti
iuditio semp saluo Laus Deo:

[illegible] eniali artante in cuius parochia [illegible]
[illegible] dicta parochia.

[illegible] parochiali [illegible] que sunt sita. ext. q. 7. c.
dua. sunt in limitibus dicte parochie, ut ibi. §. et parochiani [illegible]
[illegible] divina sacramenta in dicta ecclesia. ext. de. [illegible]

[illegible] cipiat decimas in dicta parochia [illegible]
[illegible]
[illegible] ext. de dec. l. vj. c. [illegible]
[illegible] sicut ubi con[illegible] ministrat et divina
[illegible] antiquas in [illegible] concessio.
[illegible]
[illegible] in [illegible] que dicta sunt sita. ext. de dec. l. vj. c. [illegible]
[illegible] §. [illegible]

[illegible] constat de aliqua immunitate seu reservatione. [illegible]
[illegible] dico quod tamen quantum sibi concessum
[illegible] ius habetur. Et dico quod si non fecerit mentionem circa novalia [illegible]
habet ius circa novalia. Et concludendo dico quod [illegible]
ta. Sed communi [illegible] decimas seu quartam. [illegible]
nulla mencio fiat circa novalia dico [illegible] competere de dictis novalibus.
Et dico quod si [illegible] indebite [illegible] dispositione iuris. Et in [illegible]
dampnum [illegible] iudicium rectoris [illegible] curam animarum [illegible]
[illegible] Et [illegible] ext. de. [illegible] eidem [illegible]
[illegible] nullum ius sibi competere circa novalia. Et [illegible]
[illegible] curato [illegible] ipsas decimas seu quartam [illegible] existentium
in parochia [illegible] omni meliori via mo[illegible]

[illegible]
1536. Indic. 9. die 28. Ianuarij [illegible] parochianos [illegible]
[illegible] quartam [illegible] occasione quartam [illegible] circa [illegible]
[illegible] sententiam fuit declaratum [illegible] parochiani [illegible]
[illegible] solvere curato [illegible] rectori quar[illegible] omni [illegible]
[illegible] existentibus in dicta parochia [illegible]
[illegible] [illegible] gri

Sede vacante capitulum visitavit ecclesiam parochialem in diocesi, que
per triennium et ultra antea non fuerat visitata ab episcopo. Queritur
an potuerit de iure visitari, et non disputando aliter ad
partes videtur dicendum de iure quod sic, quia capitulum habet
iurisdictionem visitandi sede vacante et casu quo sit negli-
gens in visitando metropolitanus dat visitatorem c. si. de
suppl. negli. prelat. li. vi. Et hic capitulum succedit in
iurisdictione necessaria et non voluntaria, tamen quia episcopus
tenetur annis singulis visitare diocesim c. relatum c. de
censibus. x. q. i. Merito talis visitatio facta per capitulum post
triennium fuit necessarissima et potuit ac debuit de iure
fieri. Hoc etiam tenet abb. in c. cum olim. de maiori. et obe.
versi. extra glo. ibi sed indistincte tenere quod etiam visitare
possit generaliter, quia visitatio fit de necessitate iuris.
Merito transactis uno, duobus et tribus annis talis visi-
tatio fuit facta de necessitate iuris, alioquin metropolitanus
potuisset dari visitatorem per tex. in d. c. si

Et ita sentio de iure Ego Gottardus de Menardis decretorum
doctor et canonicus constitutus salua semper sanioris opinione
Cui me remitto et in fidem manu propria ss

[illegible] credita [illegible]

[illegible] retroire super federe matrimonij ex una et [illegible]

[illegible] bernardini [illegible] verum se eundem [illegible], quia [illegible] scientia

iusticia et [illegible] fides ita magistrat qui commendari ne indiget ut

alias dixit in l. j. ff. de [illegible] et que demonstrata sunt

[illegible] non debent l. iii § [illegible] uxor in ff. de [illegible]

[illegible] agendo dico unum in presenti causa tamen esse primi

[illegible] dicta D. benedicta [illegible]

[illegible] intentionem, per quam teneri possit ad iuramentum suppletorium

per que dico et concludo [illegible] simpliciter sed plenissime probatam

esse eius intentionem et [illegible]

[illegible] per prefata [illegible] iuramento suppletorio, quamvis

non videtur plene probatum qui tamen non credit [illegible] dicti incumbit

onus probandi l. j. ff. de probat. [illegible] probare vult [illegible]

[illegible] in l. admonendi in ver. [illegible] ff. de iureiu. [illegible] autem

[illegible] D. benedicta [illegible] intentionem [illegible] demonstrat

deducta per [illegible]

[illegible] matrimonium [illegible]

[illegible] baptistam [illegible]

[illegible] cum [illegible] sic [illegible]

[illegible] in l. generaliter C. de [illegible]

Paul. de cast. in l. j. col. [illegible] C. de [illegible]

[illegible] de iudi. et in c. cum olim col. [illegible]

[illegible] alias acta, et in c. [illegible]

[illegible] de fide instru. et [illegible]

alij in l. ii C. de eden. [illegible]

[illegible] fuerit per duos [illegible] ubi [illegible]

[illegible]

in presenti [illegible] matrimonium [illegible]

[illegible] duos [illegible] matrimonium [illegible]

[illegible]

[illegible]

[illegible] dicit [illegible]

[illegible] et [illegible] consanguinei [illegible]

[illegible] et c. sicut ex litteris de sponsa. [illegible]

[illegible]

non [illegible]

[illegible]

[illegible]

[illegible] non videtur audiri.

[illegible] examinandi et alia [illegible] probat.

[illegible] non sufficiunt duo testes

[illegible] de matrimonio [illegible]

[illegible] admittuntur ad testificandum [illegible] matrimonij.

ex confessio ne extraiudiciali [illegible] ... admonendi in
et ... aduertere col. x. de iurein. et in c. ... xxxiii ...
... hab... et ... et Ludo. roma. in cons. ... lxxiii ...
in tali ... in ... allegationibus et Alex. in cons. xvii
... redemptoris nostri ... col. ix uol. ii et ...
lxvi uol. j. et Abb. in c. ix ... mat. minoris ...
col. iii de confess. cum ergo ex deductis in ...
... in ... ...
solummodo concludendum restat parere R.[mi] D. ...
fore et esse deferendum iuramentum ...
comm. ... per ... in l. admonendi ff. de iureiur.
... in pronunciando fore et esse legitimum ...
matrimonium inter dictam D. benedictam et prefatum
... quod ... ... integritate R.[mi] D. ...
iustitie religione ... dies

nominatim deferri ... suppletiuum ... complere ...

[illegible]

Jul. in facto Jes. ormeri l. si in plagijs § i. tlmo. ff. ad l. aquil. Idō factū est tale. viz. q. peregrinus de vramtia de mello de anno circa 1520 i facie ecclie desponsauit i uxor viin q. dōnā andreanā et ex ea suscepit filiū noīe Joānē Jacobū, qui corā dno vicario [illegible] eius filius legitimus dicti q. peregrini petijt sibi adiudicari hereditate paterna. In quo Judicio p filias q. bellier fratris dicti q. peregrini fuit opposita de illegitimitate ipsius Joānis Jacobi, eo q dictus q. peregrinus de anno 1519 desponsauerat aliā uxorem noīe helisabet i villa de pederuba, que adhuc viuit, Vnde quia iste articulus legitimitatis ut [illegible] preiudi- [illegible] ad R. d. episcopū et ex contractu matrimonij, fuit remissus ad R. d. episcopū et uicarium et suū officium, Corā quo dno vicario R^mi d. episcopi predictus Joānes Jacobus produxit petitionē suā sup contractu matrimonij celebrati i facie ecclie inter q. peregrinū et andrianā eius parentes et similiter pro parte filiarū dicti q. bellier fratris q. peregrini fuit opposita de [illegible] priori matrimonio contracto p dictū q. peregrinū de anno 1519 cū illa helisabet de pederuba que adhuc viuit, contra qua oppositione parte Joānis Jacobi fuit responsū q de hoc ignorat, sed dato q esset verū tamen hoc nō relevaret dictas mulieres quia agitur de successione bonorum parentum ubi bona fides parentū, seu alterius eorum ignorantis impedimentum, legitimat filios ad successionē bonorum p contractum matrimonij i facie ecclie, Ad quod responderūt dicte mulieres q verū est, q bona fides legitimat prolem quo ad successione bonorum illius qui est i bona fide, no aut illius qui est i mala fide et sic cū q. peregrinus sit i mala fide, neutro Joānes Jacobus eius filius i bonis ipsius legitimari nō potuit propter quod ambe partes capitularunt eorum matrimonia et querimus qui capitula debent admitti [illegible]

Vnde nō disputādo aliter ad partes verior opinio de Jure videtur q articuli Joānis Jacobi debent admitti, exclusis capitulis mulierum aduersariarum Primo quia licet agatur de contractibus matrimonialibus, Nihilominus, stante morte vtriusque coniugum, i rei veritate agitur de legitimitate et successione bonorum que dependent a dictis contractibus, et sic agitur de successione bonorum et opponitur de illegitimitate per prim̄ [illegible] pronunciari legitimum et heredē etiā ex ea parte matrimonio, propter bonā fidem parentis, seu alterius eorum ignorantis impedimentum p [illegible] ex tenore [illegible] p gl. [illegible] qui filij sunt legit. [illegible] causam i fi [illegible] et [illegible] gl. quere vbi allegat Inno. et dicit qui agitur de successione et opponitur sibi q nō est legitimus nā nec per petri [illegible] pronunciari legitimum [illegible] primus [illegible]

[illegible] solum debet pronunciari [illegible] dicit quod quando quis molestatur ratione illegitimitatis propter defectum matrimonii debet petere ab ecclesia ut pronuncietur [illegible]
imo iudex debet pronunciare non solum filios legitimos [illegible] videtur etiam
vide per [illegible] c. quod nobis col. ii [illegible] abb. [illegible]
dicit quod filius potest petere pronunciari non solum esse legitimum
heredem et iudex qui pronunciat filium legitimum potest pronun-
ciare eum heredem, quod quidem locum potest habere [illegible]
quod hic constaret de priori matrimonio allegato, quod nihilominus
pronunciari debeat ipsum Joannem Jacobum legitimum salva questione
successionis bonorum parentum, [illegible] docet abb. [illegible]
[illegible] nota col. ii. qui filii sint legitimi ubi notabiliter dicit
quod propter bonam fidem parentum contrahentium in facie ecclesie
iudicantur legitimi, licet postmodum matrimonium contractum
non potuisset subsistere propter consanguinitatem ut affirmat
dicit si alter coniugum erat in bona fide, propterea quia relinquit
impedimentum, etiam si impedimentum perderet vigorem alterius [illegible]
ut dicit abb. dicto [illegible] c. [illegible] finali verb. [illegible] nota

Secundo debet admitti dictus Joannes Jacobus ad probandum eius capitula contra capitula mulieris adversarie per doctri. pulcherrima abb. [illegible] col. ii. qui filii sint legitimi [illegible] ubi dicit quod quando quis contra filium [illegible] illegitimitatem, et negatur matrimonium filius debet probare, et ibi dicit quod adversarius non debet admitti ad probandum contrarium [illegible] illegitimitatem propter impedimentum dicti matrimonii, quia sua probatio non relevaret quia ignorantia parentum et alterius eorum proles est legitima [illegible] non obstante, nisi adversarius vellet probare malam fidem contrahentium et clandestinitatem et ibi dicit quod probata intentione [illegible] capitula mulieris adversarie non continent [illegible] malam fidem neque clandestinitatem neque [illegible] quod non [illegible] quod non debeant [illegible] [illegible]

Tertio capitula Joannis Jacobi admitti debent propter [illegible] fundandam quia dicit per [illegible] q. peregrinus et advenam [illegible] fuit contractum matrimonium in facie ecclesie, quod quidem [illegible] [illegible] contractum legitimum [illegible] non obstante allegato quod [illegible] prioris matrimonii, quod supra dictum est, [illegible] fundanda [illegible] [illegible] hic [illegible] probatio. [illegible] fundanda [illegible] adversarie in quo dicit quod q. peregrinus fuerat [illegible] consequenter non potuit legitimare ipsum Joannem Jacobum [illegible] bonorum suorum, [illegible] quod proles legitimatur [illegible] bonorum illius qui est in bona fide, quia respondetur

[Left margin notes:]
[illegible] solum debet pronunciari [illegible] congruentius [illegible]
[illegible] [illegible] [illegible]
[illegible] illegitimitatem [illegible] [illegible] admittendum

[Right margin notes:]
[illegible]

semper in casu ubi agitur de duplici matrimonio, maxime est, ut unus ex coniugibus sit in mala fide, videlicet ille qui [illegible] contraxit, et iura supra allegata loquuntur in causis duplicis matrimonii. Sufficit bona fides unius ad legitimationem prolis quo ad [illegible] et bonorum parentum, quia legitimatio non potest fieri valida quo ad unum, et invalida quo ad alterum, unde non potest claudicare, sicut non potest matrimonium [illegible] pro parte [illegible] tantum c. [illegible] de sponsa. glo. in c. de illis, de desponsa. impub. c. si quis ingenuus xxvii q. [illegible]

[illegible] si proles succederet tantum in bonis habentis bonam fidem, ille qui esset in mala fide, esset melioris conditionis, et de sua nequitia commodum reportaret, quod esse non debet, per l. [illegible] c. et si utcumque de donatio. inter vir. et uxo. ubi dicitur quod ille de eo commodum reportare non debet de quo penam sustinere deberet

[illegible] dicere quod dictus Joannes Jacobus legitimus non fuerit quo ad here[ditatem] [illegible] peregrini propter unius mariti [illegible] fidem, esset dicere de directo contra text. in d. c. ex tenore, ubi quidam pupillus volebat succedere in bonis q. R. patris sui, et ei oppositum fuit quod dictus R. eius pater erat illegitimus, ex eo quod pater ipsius R. habebat aliam uxorem ipse [illegible] qua suscepit eum, et tamen dictus R. pronunciatus fuit legitimus et successit in bonis illius qui habuerat duas uxores, [illegible] ipse, et erat in mala fide, quia bona fides mulieris que contraxerat in facie ecclesie cum illo, qui habebat aliam uxorem, legitimavit prolem ad successionem bonorum mariti existentis in mala fide, et sic ibi habemus text. in terminis et aptum contra fundamentum dictarum mulierum

[margin:] Qui habuerat duas uxores et ex [illegible] secunda uxore habuit filium, [illegible] illegitimum [illegible] contraxerat in facie ecclesie [illegible] legitimus

Nimis obstat aliud fundamentum dictarum mulierum, videlicet quod Joannes Jacobus sit spurius et quod spurius non potest institui heres [illegible] succedere potest ab intestato, quia respondetur quod tale fundamentum est falsum, quia spurius dicitur vulgo quesitus et hic in nihilo succedit patri, [illegible] de iure civili, licet de iure canonico spurio debeantur alimenta in bonis patris, et ei potest relinqui pro alimentis et pro dote, ut idem [illegible] text. in [illegible] c. [illegible] [illegible] qui filii sint legit. versi. quidam [illegible] sunt filii spurii. Sed in casu nostro natus ex matrimonio contracto in facie ecclesie, altero contrahentium ignorante impedimentum, non dicitur spurius, sed dicitur legitimus et heres et succedit patri per iura superius allegata, maxime capta Joannis Jacobi debent [illegible] [illegible] superius [illegible] capitur dictarum mulierum [illegible] [illegible] et [illegible] [illegible] ex eo quod non constat quod secunda uxor notitiam habuerit de priori matrimonio, ut quod clandestine contraxerint, ut quod [illegible], pro [illegible] [illegible] continere deberent — — —

[margin:] [illegible] spurii [illegible] [illegible] possunt dot. [illegible]

Et [illegible] de iure ego Gottardus de [illegible] [illegible] doct. et canonicus [illegible], salvo saniori opinione cui [illegible] [illegible] et in fidem me subs[cripsi]

[illegible]

Tercia S perij. ... [illegible] ... in tercia instancia pro venerabili viro
[illegible] ... qui obtinuit duas alias suas diffinitivas
[illegible] ... anomeatus et prebende z prestiomis
[illegible] ... dni Montisaragon et ven[li] viro dno
[illegible] ... causarum aplica auditore Non
[illegible] ... quibusdam prisis suis privacionis seu declaracionis non
[illegible] ... facte per episcopum. Burgen contra dictu dnm
[illegible] ... dam pretensa commissione ... [illegible]
[illegible] ... commissio ad probandum ... dnus q ipse d...
[illegible] ... domino petro de luna et q epus ... [illegible]
consilio capituli sui dictum dnm gun[ini] privare et declaravenon
ius here

Et ad primum q prisa sentencia epi privativa seu declarativa no
iuris dcti dni gun[lli] non obstet ostenditur ex tenore ipius q e
nulla q ipe dns declaravit declaravit litteras et gratia ... nas
dicti gun[lli] fore surreptitias et etiam quandam gratiam
extensivam ipius g ad dignitates fore suspectam quia non est
expedita sedm stilum Romane curie et sic ipsum gundissalvi
nullum ius here quod facere non potuit quia inferior a papa
de litteris pape non iudicat utrum valeant vel non ut no d.
fran. in c. Cum venissent de iudi in vi. lec Nec etiam indirecte fa
ciendo mencionem de ipsis litteris ut no[ii] inno. in dco c cum venisset
et dns fran. post eum in dco. c. in sa. q. sed sic e q dictus epus
indicat dictas litteras surrepticias ut predixi et ipsam litteram
extensivam ad dignitates fore suspectam sedm stilum curie Romane
et ipm non ius habere igitur apparet q iudicat ipas litteras
non valere et ideo ipsum non ius habere, ut sup dictum est igitur
non valet et ista est causa finalis que attendi debet ...
dispositione propter quam iudicat ipm gundissalvus non ius
habere quia cessante dicta causa debet cessare dicta sna

Margin: Tercia Sperij. ... die ... / iudex inferior ... iudicat

[illegible] est de causa impulsiva ut no. in l. [illegible] [illegible]

[margin:] [illegible] falsa in sententia, [illegible] sententia [illegible]

in probac. dicta [illegible] et si causa in dicta sententia [illegible]

vera non valet sententia ut no. in c. sicut de re iu. [illegible]

[illegible] ut sup. dici [illegible] non potest [illegible]

probata e. igitur [illegible] sententia [illegible]

[margin:] [illegible] causa

ut no. in c. abbate [illegible] et de eius po. [illegible]

[illegible] potuit [illegible] non [illegible] sufficit [illegible]

[illegible]

fuerat [illegible]

et pstmonio Burgen. et ipsum pro canonico habuit tenuit

et reputavit et hoc patet per quandam literam in qua mandavit

decano et aliis canonicis dicte ecclesie quod non haberetur nec

teneretur nec reputaretur ulterius pro canonico dicte eccl.

[illegible] sibi de fructibus non responderetur et quod ipsum ulterius

pro tali et ut talem non haberent nec sibi responderent de fructibus

predictis prout apparet in quadam appellatione dicti Gundissalvi

a dicto mandato dicti dni epi. per eum coram ipso legitime

interposita quam ipse dns. epus. non impugnavit nec inficiatus

[margin:] [illegible] allegantes contraria non [illegible] sed eis imputatur

est nisi quod non erat audiendus igitur sibi imputandum est ut

no. in c. imputari de fide instru. et in c. 1 de fuga et male

et no. plen. ostiensis de preditto in c. licet ex de Sermo et [illegible]

in c. illud de presump. et c. ex insinuatione de procur. et in c.

[illegible] de etate [illegible] et Archi. in c. ordinarii de offi. ordi. et

[illegible] in l. beneficium ad si. de reg. iu. lib. 6, et ideo apparet

quod epus. non potuit eum cogere ad ostensionem tituli quia

[illegible] per [illegible] annos ante fuerat per ipsum et alios

canonicos et decanum dicte [illegible] passus et toleratus in dicta

ecclesia pro tali et ut tali s. canonico ut predicitur [illegible]

[illegible] dicti [illegible] quondam [illegible] non habuisse vel non habere
[illegible] eundem [illegible] ordine [illegible] pronunciare possit ut [illegible] in dicto c. [illegible]
[illegible] et in alijs locis [illegible]. Nec obstat quod [illegible]
[illegible] non est [illegible] privata sed ecclesiastica non [illegible]
[illegible] in [illegible] loquuntur de [illegible] restitucione
[illegible] pontifici [illegible]
[illegible] ipsius [illegible] non fuit
[illegible] sententia [illegible] que [illegible] supplicacione
[illegible] et [illegible] iuste et in
[illegible]
[illegible] ut patet ad [illegible]
[illegible] qua [illegible] et vel aliquem titulum
non produxit vel aliomodo et idem [illegible] dixerit [illegible] habet
ut predixi [aliter] esset imponere legem [illegible] et [illegible]
[illegible] de successione [illegible] sed modus procedendi in talibus attendendus
est ut videatur an habeat locum [c.] Non est de consuetudine et glosa [illegible]
[illegible] Nam [illegible] quem [illegible] apostolici episcopus [illegible] beneficio [illegible]
tuere sine consilio capituli vel si procedit ad instanciam et [illegible]
partis adverse quia tunc non habent locum dicta iura quod requiritur
consensus dicti capituli ut [illegible] in dictis c. licet [illegible] et c. Illud
de presump [illegible] sentit [illegible] quod si episcopus procedit ad instanciam
partis debet [illegible] ordine servato providere et ideo dicta con
sideracio potius advers[illegible] non fuit iudicata nec conforme canonum

Item alia racione dicta pretensa sententia dicti episcopi fuit et est nulla quia
illa iudicata ad acta evidenter apparet de iniquitate ipsius quia dixit
in dicta pretensa sententia quod dictus [illegible] non habebat [illegible]
quia non ostendit sufficientem titulum sed de contrario apparet
evidentissime quia coram dicto [illegible] et [illegible]
de [illegible] fuerunt sufficientes tituli producti quia dicte gratie
[illegible] et extensive et processus super eis facte et acceptaciones
et provisiones dictorum beneficiorum [illegible]
facte et assecuciones possessionum eorum et [illegible] vobis
[illegible] apparet quod dicta pretensa

[illegible] & non verbis [illegible]

[illegible] consilio [illegible]

[illegible]

sententia premaxima fuit et est nulla [illegible] [illegible] probavit
[illegible] [illegible] ut [illegible]
[illegible] de re iudicata et [illegible] dicta [illegible]
[illegible] iudicatam [illegible] predictam [illegible]
non potest [illegible]

[illegible]
[illegible]
[illegible] non fuit [illegible] ut no [illegible]
[illegible]
[illegible] fuerat et erat [illegible]
[illegible] et quod non produxerat [illegible]
quod post dictam appellationem comparuerat coram eo et sic renuntiaverat
dicte appellationi ut no. in c. cum cessante de app. que omnia
[illegible] et sunt falsa quia de predictis nichil probatur ut apparet
per processum et ex registro dicti domini auditoris igitur dicta
[illegible] est pura et valida quia conditio fuit et est falsa
et non evenit ut no. in c. si pro de testib. et l. i ff. de cond. et de.
et pro tanto dicta sua pretensa sententia tanquam a non iudice lata fuit et
est nulla ut no. in c. [illegible] et [illegible]
de iud. Item quia pendente termino fuit lata ad comparendum
coram [illegible] igitur nulla quia officium iudicis interim debet quiescere
ut no. in l. sine parte C. de dila. et ideo per predicta clare constat
quod dicta pretensa sententia fuit et est nulla et sic non obstat
restitutionem fiendam

2 Ad aliud dubium de pretensa commissione quod non sit danda remissio
pretextu dicte pretense commissionis ostenditur quia fuit et est surrep-
ticia quia tacuit de dicta appellatione ante dictam sententiam
interposita quam debuit exprimere et de ipsa mentionem
facere ut no. in c. [illegible] de rescrip. et in c. ex parte [illegible] et
[illegible] oblate de appel. in glo. fi. et de offi. dele. ex litteris

[illegible] dict[illegible] contra dni [illegible] vel [illegible] ipsum
[illegible] ad [illegible] libere et de dicta
[illegible] pendebat [illegible] sententiam [illegible]
[illegible] obtenta
[illegible] qua de iure
[illegible] non [illegible] debet [illegible]
[illegible] note [illegible]
[illegible] sententia
[illegible]
[illegible] ut [illegible] et [illegible]
et expressa nominatio [illegible]
patet ut [illegible] me inter de [illegible] dicta sententia
fuit et est in dicta tercia instantia ferenda [illegible]
[illegible] et contra partem adversam [illegible]
partem adversam obiectis non obstantibus

Cetera suppleat prudentia audit[illegible]

Summarium

1. Sententia primaria epi non obstat quia lata super litteris aplicis quod facere non potuit. Item quia lata a iudice incompetenti postquam appellatioi [illegible] ut supra ostensum est

2. Item quia manifestam iniquitatem continet [illegible] ad [illegible] [illegible] plene probatum est de [illegible] [illegible] et sic absque appellatione et restitutionis remedio nulla est ut supra ostensum est

3. Item quia talis absque consilio capituli licet sit declaratiu non juris quod idem est quam privativa quod supra ostensum est

4. Item quia non tenebatur ostendere de titulo quia antiquus erat ut apparet ex premissis

5. Commissio pretensa adverse non obstat quia tacu[illegible]
de qua mentionem facere debuit ut supra dictum e[illegible]
sibi dari non debu[illegible]

[illegible] Decimus.

Ja matz. ,Sotorij.

excom[m]i.

[illegible]

... conf[ir]matione debite ... p[ro]c[ur]ato[r]e ...

[illegible] ... post sentenciam ... post ... legato ... depont ...

... arbiter et delegat[us] ... insufficienter ... non est ... ista ...

... post sentenciam ... dixit ...

... nec eorum testium in confirmatore ... informat ... ad judicem non ad confirmatorem ... tenet ... bene ... et facit ... p[ro]pter ... vellet ... testium dare exceptiones ... non debet ... confirmator eas admittere ... non ... et hoc ... negative ... in alio ... responde ... testium non ... informare ... interrogare ... ad sentenciam ... arbitratori ... repetendo ...

[illegible]

[illegible]

preterea [illegible] ergo [illegible] [illegible]

quod non est sentiendum. Continet [illegible] [illegible]

in notorio [illegible] sic [illegible] [illegible]

cedit in possessorio ut [illegible] [illegible]

procedit in notorio et idem est in processu [illegible]

[illegible] de bonis [illegible] [illegible]

notorio procedit in possessorio et criminaliter [illegible] no [illegible]

Illud etiam quod dicit non esse [illegible] [illegible] examinari [illegible]

Bar. in l. [illegible] ff. de testa. tut. et quod [illegible] fuit in palatio et [illegible] hoc bene

facit quod non [illegible] relationi notarii super examinatione [illegible]

[illegible] quod etiam tenet [illegible] [illegible] ab omni impugnatoribus [illegible]

[illegible] Si dicebat [illegible]. Multi loquuntur de notorio qui ignorant quid sit notorium. [illegible]

ipse est. Negat [illegible] esse notorium [illegible] non potest non esse notorium [illegible]

[illegible] ad aliud non potest non esse notorium [illegible]

[illegible] est notorium [illegible] notorie [illegible]

[illegible] et [illegible] possessio [illegible]

[illegible] in [illegible] et [illegible]

testium [illegible] in Curia et depositiones testium [illegible]

in Curia producte [illegible] fuit [illegible] possessio momentanea [illegible]

[illegible] ignorare non potuit [illegible] notitia [illegible]

sicut dominus de tenere aliquid [illegible] quod solet [illegible] magna [illegible]

[illegible]

[illegible]

[illegible] non esse notorium fuit etiam et est notorium [illegible] spolii [illegible]

[illegible] clamans qui [illegible] non potuit esse non notorium [illegible] spolii [illegible] notorium [illegible]

et spoliatum [illegible] quia in [illegible] Consiliatore [illegible]

[illegible] et sic constat [illegible] fuit spoliatus [illegible] in Curia [illegible]

[illegible] ad Regem [illegible] magna [illegible] et si non constaret [illegible]

spoliasse [illegible] constat [illegible] spoliatum [illegible] possessorio [illegible] fuerant [illegible]

[illegible] possessione antiqua [illegible] apud aliud [illegible] spolium ut [illegible]

sepe de testis [illegible] quandoque manu [illegible] ambulaverit [illegible] spoliatio [illegible]

[illegible] privilegia [illegible] spoliatio [illegible]

[illegible] a [illegible]

[illegible] omnium [illegible]

[illegible] non

[illegible] in [illegible]

[illegible]

[illegible]

[illegible] ecclesiasticar.

[illegible] Speij.

ac Notorii.

[illegible]lerato

[illegible]rumq;

Jhus

[illegible] iuris parte actoris in causa
[illegible] sancti Johannis in Regno Castelle

[illegible] adversa impetiuit ipsum [illegible] obtinere [illegible] y de [illegible] quod [illegible] post electionem partis mee de eodem [illegible] de luna dicens ipsum fuisse reservatum sedi apostolice illa vice et ob [illegible] nullam fuerit mentio de ipsa electione partis mee [illegible] illa verba [illegible] in bullis petri de luna posita cuius [illegible] collatio provisio et omnimoda dispositio [illegible] certos processus et sententias per nos ex iustis et rationabilibus causis quorum tenores [illegible] volumus hic pro sufficienter expressis et [illegible] ad nos [illegible] pertinere [illegible] [illegible] [illegible] clausula [illegible] sufficientem reservationem [illegible] cum non constet alias in actis cause de aliquibus processibus et [illegible] nec huiusmodi reservatio videatur in corpore iuris scripta aut in regulis cancellarie expresse contenta

Solutio In nomine individue trinitatis patris filii et spiritus sancti Amen

¶ Super primo dubio videtur dicendum quod dictis verbis enunciativis debeat plena fides adhiberi [illegible] papa aliquid narrat de facto suo in suis litteris et super sic narratis fundat intentionem [illegible] plena fides sit adhibenda [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] quod confert [illegible] illa enunciativa probant [illegible] cum super illa fundetur intentio conferendi [illegible] no. glo. super [illegible] [illegible] [illegible] in cle. litteras de proba. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] immo ut dicit ibi [illegible] super [illegible] plenariam talia verba inducunt plenam probationem etiam in causa criminali ubi requiruntur probationes luce meridiana clariores [illegible] [illegible] et [illegible] de [illegible] [illegible] et [illegible] [illegible] cum igitur hic papa narret de facto suo [illegible] dicit [illegible] [illegible] sententias [illegible] ad ipsum pertinere provisionem ista verba attestantur de facto proprio et super illo se fundavit [illegible] plena fides est adhibenda et maxime cum disponit quod ex illis habeantur pro sufficienter expressis processibus et [illegible] [illegible] ex iustis et rationabilibus causis [illegible] [illegible] [illegible] [illegible] [illegible] ac si totum tenorem processus et sententias [illegible] ut est textus in [illegible] [illegible] in duobus locis [illegible] et tenet rota in conclusione [illegible] [illegible] nullus dubitat quod [illegible] [illegible] est iusta [illegible] dispositio super illa fundata [illegible] [illegible] et [illegible] ex quibus concluditur [illegible] intentionem partis adverse [illegible] verba enunciativa ¶ Sed contrarium est verum ut ostendo [illegible] in suis litteris [illegible] pro fundamento quod collatio provisio et omnimoda dispositio istius hospitalis castelle spectat ad magnum maiorem ordinis [illegible] ex quibus concludit

ubi quod nullus alius potest se intromittere nisi sit .. magis
quia ubicumque provisio importat ius eligendi et confirmandi
ut no. glo. in cle. si. de. electione, et idem importat vel mi
omnimoda dispositio cum sit verbum universale et generale ... cui
comprehendere omnes speciem provisionis, quia verbum omnimoda
est generale quamlibet speciem generis ... ut no. glo.
in .ii. omnimoda in cle. quamvis de. s. ... et ... inde dicit
quod propter tenorem quarundam sententiarum iuste latarum que ... non
intelligitur quod sufficienter expresse hac vice dumtaxat ... cum
expectat a ... provisio et omnimoda dispositio ... a ...
apte ... quod benedictus intendit ad se ... provisione
propter sententias latas contra magistrum ... ordinis predicatorum
quod ... pro ... quod ad magistrum ... provisionem pertinent et
propter sententias latas ... B. expectat provisio, ... intelligi quod
... sententias contra magistrum ordinis predicatorum
ad que expectat ... provisio, alias si intelligeret de sententia lata
a ... alio non ... intentio sententiarum ex quibus ubi
concluditur quod vigore sententiarum ... contra magistrum provisio pertine
bit ad benedictum (Set iste sententie et quecumque pene late contra
quoscumque per dominum B. fuerunt declarate nulle et nullius
valoris et efficacie per concilium constantiense ut patet in cons
titutione ... concilii ... in actis, si ergo declarantur nulle
et nullius efficacie non possunt imprimere effectum. de. re. iu.
c. i. de pena. in ... de. sen. ex. per tuas (ergo concluditur quod causa propter
quam B. contulit dicto non fuit illa, et sic provisio limitata
... non subsistentibus in veritate non tenet. ut est textus
de. conce. preben. ex parte et c. dilecto. ad hoc quoque. ff. sunt leges.
per tuas, non enim intendit. B. conferre nisi ... magistri ob quam dicit ad se ... devolutam quod
non erat ex nullitate sententie ... B. ... ad hanc causam
conferendi nullam non potest dictum ... alio iure
potuisset valide ut in iuribus predictis allegatis ... expresso enim
uno modo in rescripto non potest includere alium modum licet
potuisset alio modo validari. ... de rescriptis ...
... de preben. cum in illis ... ii. co. ... et cle. ...
... liquide quod concessio dicta est nulla propter causam non ...
set nullam in ea expressam ... nec obstat quod B. voluit
conferre sive provisio vel alio quovismodo vacet quia
hec verba referuntur tantum ad modum vacationis et sic

dum dicit exquacumque persona, quia per hoc intendit includere
[illegible] aliarum personarum. Item si sit reservata aut devoluta
istud committit potestatem conferendi ex iure devoluto. de con-
preben. c. ij. et c. quia diversitatis. Sed per predictam clausulam papa non intendit
conferre si electio spectaret ad inferiorem. Sed tamen quia est
petitum eiusmodi provisio ad magistrum, ergo intendit solum
in collatione preiudicare magistro et non aliis ad quos spectat
ius eligendi et providendi et in veritate eiusmodi provisio non
spectaret ad magistrum ut infra ostendetur. Ergo non valet provisio 9
quia per eius personam gravaminis conferendi presbiteratus
persone non intendit papa gravare aliam personam. de preben.
cum illis in fi. et c. mandato et c. mandatum. li. vi. Et sic
habemus clare quod ex [illegible] B. collatio sua non tenet.
Tum propter annullationem [illegible] contra magistrum. Tum quia
eo iure quo papa dicebat ad se spectare provisionem non
erat verum. Quod autem eiusmodi provisio et dispositio non
pertineat ad magistrum probatur tam per testes quam etiam per ordi-
namenta ordinis [illegible]
[illegible] in quibus apparet quod quando vacat prioratus debent vocari
xij fratres [illegible] et ab illis xij vel a maiori parte electus
debet esse prior. Et illi fratres illius prioratus tenentur obedire in omnibus
et per omnia quousque morte dicti prioris venit ad noticiam audienciam
magistri citra mare aut magni preceptoris et illi habuerint
alius mandatum a predicto magistro. Hec est forma ordinacionis
ex qua apparet quod xij fratres habent ius eligendi priorem et quod
electo tenentur obedire. Per quod apparet quod in talibus electionibus
non requiritur confirmatio superioris sed ex sola electione habet ius
administrandi. Nec hoc est novum quia asseritur hoc possunt
ut no. de elec. transmissam. Nec isti sunt [illegible] prelati sed po-
nuntur ut administratores ut patet ex no. de [illegible] deputati
p. inoc. Nec predicti sunt prelati quia cum sint layci ius prelature
non cadit in laycos. Ergo isti priores magistri et hospitalarii predicti
non sunt prelati ut no. glo. in ii. electi in c. cupientes. § i. de
elec. li. vi. Confirmatio ergo [illegible] quando volunt quod electus non administret
sine confirmatione loquitur in beneficiis ecclesiasticis que clericis
vel religiosis conferuntur non de militibus vel laycis quibus
administrationes tales et preceptorie conferuntur. ad hoc. c. quia
contingit. de reli. dom. [illegible] notantes item [illegible] constitutio

C

q ipsi administrent et priores sic electi ducent et eis assiduis
obedientie pera quousque mors predecessoris venit ad notitiam
magistri et illi habuerint aliud mandatum a magistro, quod si magister
postea nichil mandet semper talis electus remanet prior quasi ab
institutore quod licet sic prior nichilominus magister possit alium ponere quasi
isti sint remobiles ad nutum magistri et conventus vel alterius
superioris prout no. Inno. in c. cum deputati et de re iu
olim .i. et probatur in cle. quia regulares de sup. ne [illegible]
¶ Item alia ratio quia quando magister est cum conventu [illegible]
remotis tunc loco conventus magistri et conventui [illegible] possunt [illegible]
providere de similibus prioribus et administratoribus [illegible] ut illi
tunc quia magister erat absens quando ipse [illegible] locum tenet et
conventus providerunt fratri alfonso electo ¶ ex quibus liquide
constat quod omnimoda dispositio et provisio non spectat ad magistrum
prout vindaus dixerunt in suis litteris, quia verbum omnimoda est
universale excludens omnes alios de ma. et obe. solite no.
glo. in v° omnimoda in cle. quam de sup. compe. et hoc est falsum
quia spectat etiam ad illos [illegible] fixis secundum formam ordinamenti
predicti et etiam spectat ad locum tenentem magistri et conventus
vacante ipso magistro in remotis agente ¶ sequitur secundo conclusio
quam dixi quod ex falsa causa motus fuit D. ad conferendum
dictam et sic non valuit et propter hoc cessat contrarium de
verbis enunciativis quia verba enunciativa pape super quibus fundatur
sua intentio si sunt de facto alieno inducunt presumptionem non
tantum, ita quod suo probatur contrarium illis sit standum, set si
probatur contrarium non statur illis ut no. glo. in v° fecisse in
cle. litis de pro. et fiat quod no. de Pp. non nulli in glo.
pe. et glo. in v° super vacanti de pau. in mam ¶ set hic
attestatum de facto alieno quod omnimoda dispositio spectaret ad
magistrum ¶ secundo probato quod ad magistrum non spectat omnimoda pro
visio ponitur narratio pape ut dicit illa glo. et redit
ratio eius quia in facto proprio non presumitur sic error, secus
in facto alieno de Pp. ab excitato cum concor. et in
contrarium dicitur tolerabilis error in consuetudinibus et sta
tutis particularibus locorum ut dicit tex. in c. i de constitu.
li. vi. cum igitur probetur per ordinamenta ordinis producta in
causa et per testes quod ad magistrum non spectat omnimoda provisio
patet quod ex illis verbis enunciativis non est standum et per hoc
est responsum ad nonam contrariam supra formatam

et sufficit. Secundo dubito quia illa uia non ptinet reservacionem
eius reservacio fuit restricta ad certam causam scilicet quod ad magistrum
spectabat que est falsa et cessante causa cessat eius effectus
que est finalis et super qua fundatur dispositio ut patet de ap.
cum cessante et de renu. post translacionem cum ibi notatur et de
hiis apostolus patet et beneficialibus patet in c. si pauper clericus de
preben. l. 6. insuper et maiori claritate predictorum est videndum
posito quod ex capite dicte reservacionis collacio predicta non procedat
possit procedere ex alio capite quia dominus magister non habebat obe-
diencia in Regno castelle et sic non poterat providere tempore vaca-
cionis dicti prioratus et gratie domini domini benedicti adiusatio facit nam
posito quod processus et sue fuerunt cassati huiusmodi per concilium
(non tamen data fuit obediencia et sic verum quod videatur non gravauit
dominum magistrum in conferendo et in locum magistri ipse successit et
sic usus est suo iure providendo et licet ponit auferendo bene-
ficium narrat illud ut resultum ex hoc capite et est alia
et quod tamen falsa demonstracio l. demonstracio. de cdi. et demonstra-
cionem similibus (Sed animaduertendum est verum quod dico quod dominus
magister non habet adhuc obediencia in Regno castelle tamen successit
loco magistri ordinarius loci in conferendo presuposito quod ille
prioratus non esset electiuus per electionem prima. de suple. negli.
platorum sicut enim ordinarius succedit in exemptis aut capitu-
la in providendo quando per negligenciam platorum non conferunt ita tamen
quando impediuntur quia est eadem racio quod idem ius l. comodissime
de li. et posthume. et l. cum proponas. de here. insti. et quod notatur
simili glosa in c. si postquam de elec. libro 6. nec obstat in decre-
tali. que dicit quod si impediatur per quamcumque platus conferre non
est locus illi iuri cum non sit expressus ille casus igitur et est (racio
quando platus est privatus propter suum delictum ideo ordinarius
non providet quia succedere potest capitulum quamuis in conferendo
ius. non. ne. se. va. c. i. libro 6. cum materia sua et ideo non
debet exemptionem preiudicare in illo casu (Sed quando per negligen-
ciam vel per impotenciam non potest platus nec conventus
providere succedit dispositio illius iuris ut ordinarius
conferat et hoc est valde racionabile quia ex quo platum
exemptus non potest administrare debet iure redire ad sua
natiuitatem ar. l. si. vnus. si pus. d. in specie de pacto (natiuitatem
autem et ordo in conferendo est ut admittatur cum diocesano
ordinarii. xvi. q. ii. visitandis (ex premissis igitur resultat quod
tamen ad presentam illa bulle non pertinet de iure dispositio dicti

provinus et ipse non intenderit aliam collationem providere ut patet
ex verbis suis quod gratia non valuit, nam cum papa conferret huiusmodi
ut reservatum clarum est quod non intendit alium providere
de resp. c. mandatum et hoc procedit in quantum teneamus quod
obstante obedientia que prestabatur adhuc Bndicto in Regno castelle
fuisset impeditus dominus magister in conferendo. si autem diceremus
quod potuisset de iure providere tunc essemus in dubio an provisio
pape non intendentis providere ordinario collatori confirma
retur ordinarius infra tempus non contulit quod primo facie videtur
quod non in c. auditis et c. quod studium de elec. et fuit una decisio in
antiquis que incipit constat enim quod idem magister hic non providit
infra sex menses quod est tempus ad conferendum prestitutum. Item et e contrario
contrarium est, quod a principio est nullum tractu temporis non
confirmatur ut in regula iuris et ibi concordantia. Set hic

Ro gratia fuit nulla (quia si papa fuisset de iure ad aliud providere
non providisset ut in suis brevibus consensu a contrario attestatur (quod
quod actum postea subsequens non confirmatur ut in c. sacro tempore
de resp. in vi. (nam falsitas causa habitis modo principem
ipso iure viciat rescriptum ut not. super litteris ad sua materia
de resp. et plene in d. l. demonstratio. et l. ii. si quis in ius vel
vel publicens quod actus a principio valent tamen non providendo alicui
quia tunc sequens consensus valebit. ut in c. ii. de his que fi.
a p. sine c. capituli. Item notandum quod antequam dominus magister pro
videret adversario conventus Rodi et locum tenens magistri provi
derunt parti mee et sic fuit ex illa provisione questitum ius (nam
cum magister est in remotis absens tamen secundum stabilimenta ordinis
quia secundum iuris communis dispositionem conventus potest conferre
ut no. la. in c. quoniam ne sede vacante. li. vi. et dicit se consuluisse
unde solutio sequitur dominus magister non potuit tollere ius iam
questitum parti mee etiam si fuisset factum infra tempus semestre
quod tamen non fuit immo plus dico quod attento quod collatio domini
Bndicti olim fuit facta post substractionem obedientie tutorio
nomine factam per regem aragonum et confirmatam per conci
lium non valuit quia ut tutor potuit pro bono benivolentie
tutorio nomine Regis illud facere (nam versabatur in generali
administratione Regni et confirmatio sequuta per concilium
clarum est quod habuit effectum et sic dicitur quod concilium
postea ratificavit gesta in Regno castelle usque ad substractionem
per ambaxiatores Regis castelle in concilio factam
(quod valuit ista collatio domini Bndicti antequam concilii responderet

p in illa appellacione fuit receptum dum modo non fieret prejudicium accionem suam johannis [illegible] si prejudicium fieret [illegible] quemcumque [illegible] ut de c. in mandatum de [illegible] et etiam domini confirmacio deest pro ure [illegible] [illegible] videntur ex [illegible] quidquid in a [illegible] factum est [illegible] cum [illegible] ff. de [illegible] et l. ff. de [illegible] qui [illegible] sui vel alieni [illegible] ex sic ex omnibus [illegible] non [illegible] adversarii et ad bonum ius legitimum [illegible]

¶ Secundum dubium quia pars adversa pretendit quod ille in obediencia [illegible] tamquam [illegible] seu ipsum tollerunt volens per hoc [illegible] [illegible] reinducavit [illegible] an sufficiant instrumenta [illegible] de metu [illegible] in actis producta ad [illegible] premissa in quibus [illegible] apparet quod domina catherina regina tutrix domini Regis castelle fecit [illegible] principaliores et inter alios ipsum dominum alfonsum et alium [illegible] de padinas [illegible] se vocare et eis [illegible] in palacio ipsius coram regina [illegible] [illegible] fecerat claudi portas palacii et imposuerunt eis [illegible] minatoria ut obedirent [illegible] tamquam [illegible] et literis [illegible] concessit et [illegible] ille [illegible] fernandus de cardenas replicavit [illegible] et [illegible] postea [illegible] ex huius causa fuerunt postmodum captus et ad turrim de [illegible] ductus ibidem incarceratus et finaliter mortuus et etiam cum appareat quod ipse dominus alfonsus postea [illegible] seu [illegible] continuare [illegible] ius suum

¶ Super secundo dubio de obediencia prestita per fratrem alfonsum [illegible] dictis [illegible] metum Regine an inducant [illegible] circa hunc articulum est dubitatum an metus ipsius Regis inducat sufficientem metum sicut dicatur cadere in constantem virum de quo [illegible] glo. [illegible] q. [illegible] c. [illegible] glo. [illegible] glo. xxiii q. [illegible] glo. in c. cum dilectus quod metus [illegible] glo. et [illegible] in c. [illegible] qui [illegible] ¶ Set quantum ad causam nostram dico quod fuit metus cadens in constantem virum qui continet timorem mortis vel cruciatum corporis [illegible] testus quod [illegible] cum dilectus et de [illegible] [illegible] de transla. [illegible] quantum ad causam nostram hic fuit timor mortis quia [illegible] [illegible] est [illegible] qui [illegible] fernandus de cardenas [illegible] de padinas qui dixit quod nolebat obedire fuit de mandato regine [illegible] et captus [illegible] ductus in carcere et ita — in marg.: metus cadens in constantem virum

9

male tractatus quod mortuus est. Item alii timentes ne taliter
tractarentur et interficerentur deliberaverunt parere mandato re-
gine. Ecce quomodo fuit timor mortis. Item fuit cruciatus corporis quia
ex eo quod dicti fratres Alfonsus cum quibusdam aliis [illegible] regine
nolebant obedire fratri Didaco fuerunt reclusi in palacio regine et
per reginam fuit eis [illegible] preceptum et comminatum quod non
recederent de suo palacio quousque obedirent fratri Didaco et fecit
claudere ianuas palacii et scalam ne inde recedere possent [illegible]
detenti et minati per plures et plures homines cum [illegible] commi-
nacionibus et quod si non adimplerent hoc [illegible]
ad quoddam castrum ubi erant in forcia et compulsion [illegible]
dicta hec clare patent in instrumento in medio [illegible]
concluditur cruciatus corporis quia detentio in loco [illegible]
uno aliquo alias illo dicitur continere cruciatum corporis et qui
continet malam mansionem ut patet e. de iniuriis capitulo [illegible]
[illegible] et [illegible] et ff. ad Silla. l. i. [illegible] Item patet ex eti-
mologia notabili quia tormentum dicitur torquens mentem hoc no-
tatur glosa in [illegible] tormentis in cle. i. [illegible] de here. Cum igitur isti fuerint
detenti minati et debebant destinari ad illud castrum ut reti-
nerent in [illegible] patet quod fuit timor cruciatus corporis. Item
fuit timor cadentis in constantem virum quia qui subest timori
privacionis bonorum vel [illegible] ista causant iustum timorem
ut c. abbas et c. ad aures [illegible] et sic fuit iste timor
quia ex parte regine fuit eis expositum quod auferrent eis sua
bona et comendas. Item solum [illegible] Regis causat iustum
metum qui reges consueverunt alios male tractare et opprimere non pa-
rentes suo mandato alias imperio ut [illegible] insinuare
[illegible] et ita intelligit glosa [illegible] et [illegible]
[illegible] convenio. Sed ita est hic quia ille frater qui postea contra-
dixit fuit male tractatus usque ad mortem. Ecce patet quod non
[illegible] nisi solum [illegible] Regine iniustus fuit metus.
Ex hiis ergo concluditur quod per obedienciam prestitam per fratrem
Alfonsum [illegible] fratri Didaco non fuit inducta renunciacio [illegible]
[illegible] quia licet prestacio obediencie superiori in dignitate quam
[illegible] pretendit ad se spectare inducat tacitam renunciacionem
[illegible] ea que [illegible] de hiis [illegible]
sit sponte secus est quando obediencia sit coacta quia non [illegible]
per illam obedienciam renunciare iuri suo. Sed illud facit ut cutelet
metum [illegible] in c. [illegible] et istud declarant
prestacio eiusmodi [illegible] talem obedienciam et post de qua prestacione
constat in actis quia talis prestacio iusta [illegible]
[illegible] prestationem [illegible] sit contraria [illegible] in c. [illegible]
de [illegible] et de electi [illegible]

Uteran' dubiu' quia p3 ad usa . . . facte multum festum q' nec . . .
dns alfonsius . . . et sic illegitimus an sufficiat dispensatio sua
p dnm clem . . . tem sibi concessa in actis pdicta q . . . multum
pnans cu dic q' posset pmoveri ad quecuq3 et quascuq3 dignitates
in ipo ordine et ulterius dicat q' de cetero no teneat' facere mē-
cionē de defectu hmoi an verba in decreto electionis posita cū ipius
medium etiam pbant electores in actis ubi attestant' illum nemi-
. . . [illegible] sibi in potestatem et p sedem aplicam sufficiat
[illegible] etiam quia ipa clemens scribit sibi tanquam
[illegible] an sit assitus . . . sufficiat nobilitatem
[illegible]

Sup ista . . . querimus de duobus quo ad pmu' patet . . . quia
. . . [illegible] clementis . . . ingressus Re-
ligionis tollat irregularitatem illegitimitatis quo ad or-
dines no autem quo ad dignitatis pmocōem sine dispensa-
cione aplice sedis de fi . . . c. r. et si hic est facta dispensatio ut
ad omēs dignitates pmoveri possit etiam si p electionem assumat'
[illegible] censetur habilis ut p3 de elec. motuit et c. cu . . .
Un' quo ad habilitatem psone respectu defectus natalium non
est dubitandum q' est habilis et in sua . . . [illegible]
constitucōes ordinis contrarii . . . [illegible] clarum . . .

¶ Quo ad secundum dubium an alfonsius debeat pbare se fuisse
genitus et ego dico q' no quia cu dubitat' de qualitatibus requi-
sitis in psonam electi et confirmati ille qui dicit qualitates
illas no adesse artatur onere pbandi quia cu sit in possessione
hmoi iuris non cogit' dicere titulum sue possessionis. e. de
p . . . et no de pen. e . . . Item quia psumendu'
est p sua confirmacōe et approbacōe p illos qui sunt assume-
re ad dignitatem de renu . . . Item quia est tanqua'
. . . postquā est approbatum et alis dicit eum no ydoneu'
. . . adusario no pbante absolvitur de . . . ecia
ut ecclesiastica . . . et hec est conclusio . . . et ostendit de dolo
cum olim et patet . . . no . . . de elec. cum dilectus et no . . .
de . . . sup his . . . de eo qui fur . . . ordi. suscepit . . . motuit et no. arch.
. . . sup glosse autem alfonsius est electus et confir-
matus quia ut supra fuit ostensum ordinamenta ordinis
. . . volunt q' p sola electionem totaliter acquirit ius ad
ministrandi et sic . . . licet . . . confirmatus nisi
enim sunt plati qui no spectant confirmacōem ex privilegio
de elec. transmissam et maxime in istis qui no sunt plati . . .
. . . nec sunt administrare spiritualia . . . no
. . . de . . . deputati . . . non mirum si in istis est.

necessaria confirmatio sicut in aliis (ex his g° patet quod non ar-
tatur contra illam qualitatem secundum oppiniones . mri . dicti
doctoris preallegati

¶ Quartum dubium quia pars adversa duplicia produxit sua nunc bull
processum collationem ordinariam et super magni. [illegible] cum
aliis instrumentis per modum transsumptorum et nunquam [illegible] et or-
iginalia in eorum transsumptione non apparent per testes [illegible]
apud acta, et qualiter transsumptorum originalia [illegible]
ne apparent per testes [illegible] et parte [illegible] recognita fuisse et
esse vera originalia et per autenticas personas facta aut eos qui fece-
runt fuisse autenticas personas an contra possunt [illegible] non
[illegible] fidem et circa ipsum processum sunt consi[illegible]
circa primam transsumptionem per parte adversa fuit [illegible]
[illegible] quod deberetur eis adhiberi fides [illegible] et [illegible] in
excepcione contra eam dicte et [illegible] circa [illegible] transsumptione
[illegible] comparuisse quidam procurator [illegible] ipsius domini alfonsi
et dicitur esse notario transsumpmenti quod [illegible] sibi [illegible] suam fideli-
[illegible] transsumpmentum [illegible] ne . pri . mi . ipi alfonso no-
[illegible] debeant [illegible] recognita Solucio

¶ [illegible] quod nisi appareat quod originalia sint
facta per personam publicam [illegible] non adhiberetur fides . ut no . de fi
instrumentorum . cum per [illegible] . et c . si et similia quod sint recognita
et fides facta de manu sua, ymo etiam quod ille fuerit notarius ut no . vel saltem possessionem
no per [illegible] in c . [illegible] de [illegible] sig. [illegible] et quod non probent instru-
fuerint recognita . pri et . no . in [illegible] . et . p . [illegible] . ibi . [illegible] . de
instru edicti . § . postumo his autem consideratis . in pri . collige-
ita quod istud est clarum quod non esset adhibenda fides nisi papa
aliud mandaret (circa mandatum pape patet quod ad hoc quod
dictis scripturis fides adhibeatur plura requirit [illegible] primo quod
fuerint transsumpta de auctoritate et mandato domini philiberti, et secundo
quod fuit munita sigillo autentico curie auditoris camere [illegible]
vel saltem manu publicarum personarum subscripta tercio quod in dictis et
dominus philibertus interfuerint dederunt ut illis fides adhi-
beretur . ¶ quarto quod probentur illos notarios fuisse et esse legales
personas et sic premissa omnia non probentur non est illis adhibenda
fides ut patet ex serie rescripti quod compulsio omnia ista simul (sic enim
precedere requiruntur plura ut no . de [illegible] c . ii . et c . olim et de
[illegible] exhibita . de [illegible] licet enim [illegible] si essent alii deffectus non
intendit papa illos supplere quia supplet tantum deffectus presencie
partis vel non [illegible] transsumptorum in [illegible] compulsorie (sed non intendit
papa supplere alios deffectus si qui essent puta quia non fuerunt recog-
nita an alia instrumenta a quibus erunt exemplata
fuissent publica et de manu illorum quorum dicuntur et quod
sint vera ut supra dixi ¶ hos deffectus non supplet papa [illegible]

fiunt ex [illegible] quia dum quod adhibeatur plena fides p[er] instrumenta [illegible]
[illegible] in transsumpto. Et sola presentia illius non sufficiat quod illis super
adhiberetur fides nisi constitisset aliis p[er] recognitionem suam vel
[illegible] principalis quod illa erant instrumenta publica. Cum igitur
ista [illegible] sit privilegium quia est contra ius commune quod
[illegible] fides non dotata parte vel parte de iuribus prin-
[illegible] no de [illegible] significant et c. alberi[cus] et de
[illegible] auctor. c. si debet intelligi sicut proprie loquitur et no extendi
[illegible] et c. sunt ut concedit tam simpliciter
[illegible] dessinere

[illegible] quod illa ubi [illegible] indicant recognitioni
[illegible] quia dicit quod in manu sua committit quod fideliter firmat
p[er] hoc applicat [illegible] fidelis no tamen ex hoc
sequitur no tamen hoc sequitur ex hoc sequitur quod firmus [illegible]
debet applicare. Sunt enim iste valde differentiae quod applicet persona
ipsius que ad fidem [illegible] et quod applicet [illegible] sollempnibus [illegible]
similiter applicatio unius actus no infert applicationem alterius actus
[illegible] si applicet personam [illegible] non intelligitur [illegible]
[illegible] de [illegible] sup[er] [illegible] similiter applicato testes non [illegible]
[illegible] testi [illegible]
non infertur quod ex applicatione [illegible] consistit
[illegible] instrumenta [illegible] debet fieri [illegible]

Tertium dubium quia ex adverso fuerunt exhibiti ad acta cause
certi libri [illegible] de statutis et stabilimentis dicti ordinis et forte
[illegible] stabilimenta p[er] parte adversa extracta et [illegible] ex eisdem
[illegible] sunt videnda [illegible] que est unum de illegitimis no promovendis in
ordine ad dignitates et [illegible] quod [illegible] habet tot negationes
in se quod nescitur si est affirmativum vel negativum et [illegible] videndum
si ista [illegible] faciant fidem pro parte adversa et etiam p[er] parte adversa [illegible]

Super isto [illegible] dubio an stabilimentum de illegitimis et [illegible]
[illegible] facit regulam negativam quod [illegible] est natus de legitimo
matrimonio no possit esse miles in mansione hospitalis ab ista
[illegible] unum casum p[er] aliam negativam [illegible] esset filius comitis aut
maioris [illegible] quasi velit quod si esset filius comitis et maioris [illegible]
posset illegitimus militare et sic filii istorum gaudeant [illegible]
sicut [illegible] filiis istorum favent ut in [illegible] de [illegible]
ne aliquis [illegible] deinde facit aliam regulam quod illegitimo
no possit [illegible] conferri [illegible] de capitulo generali [illegible]
[illegible] et ista includit etiam filios comitis et maioris licet [illegible]
concedit quod [illegible] no in intendit concedere quod
[illegible] vel sint de capitulo generali in hoc [illegible] esse consona
[illegible] quia de iure [illegible] illegitimus [illegible] ad ordinem
[illegible] etiam ordinarii ad sacros ordines sine dispensatione tamen non
possunt promoveri ad dignitates et ordines sine dispensatione
ut est [illegible] de [illegible] c. i et [illegible]

¶ Quo ad secundum dubium, an ista stabilimenta ordinis [illegible] de quo non apparent in publica forma, respondeo, quod si ante in ordine iste liber pro stabilimentis ordinis habetur et com[m]uniter reputetur et observetur [illegible] pro certo quod contenta in illo sint stabilimenta ordinis quod tunc adhibebitur et plena fides licet non appareat scriptum per manum pu[blicam] [illegible] tenet glossa [illegible] in summa ille [illegible] stabilimenta [illegible] fiat et hoc etiam tenet [illegible] in [illegible] quod [illegible] ubi dicit quod si liber statutorum com[m]uniter reputatur pro tali libro probat [illegible] licet non habeat subscriptionem publicam, dat exemplum in libris canonum et legum quibus utimur pro legibus et canonibus et tamen non habent subscriptionem manus publice et [illegible] tanquam autenticis, sic est in casu isto, quia si [illegible] isto libro vel similibus adhibetur fides [illegible] stabilimenta ordinis creditur absque eo quod aliqua manu publica appareat scriptum et istud videtur [illegible] preter appellare que dicunt illa esse stabilimenta ordinis [illegible]

¶ Sextum dubium an prima subtractio obediencie facta petro de luna in regnis castelle et legionis et capitulis narbonen[sis] [illegible] in ordine [illegible] decreta concilii constancien[sis] [illegible] que etiam sunt in [illegible] revelare [illegible] bullas petri de luna [illegible] tempore obiunt ipsius roderic[us] gomeri de [illegible] prima subtractio fuisset ipsi petro de luna facta in regnis castelle et legion ubi est prioratus licet venerunt plures eiusdem regni adhuc ad eius curiam [illegible] recursum [illegible]

¶ Septimum dubium dico quod [illegible] illius capituli [illegible] narbonen[sis] [illegible] postea approbatione concilii constancien[sis] sub eadem forma patet quod [illegible] facta fratri [illegible] per B. non valeat, quia [illegible] concilium approbat gratias factas per ipsum usque in diem [illegible] requisitionis [illegible] gratias postea per eum faciendas quia ista dicta usque [illegible] affirmative [illegible] quo ad aliam que sunt usque ad illud [illegible] abinde [illegible] negative et prohibitive ut est textus de ord[inatione] ab episcopo [illegible] c. i. [illegible] archidiacono et [illegible] capellanus, si [illegible] concilium approbant gratias factas usque in illum diem intelligitur prohibere postea alias faciendas [illegible] autem [illegible] contra prohibitionem concilii sunt nulla non valent quia concessiones facte per prelatum post prohibitionem superioris pendente inquisitione criminis contra prelatum non valent ut patet de [illegible] venerabili de dolo [illegible] c. si, et clarum est quod concilium constancien[sis] generale

cum supius videro in causa conveniente scisma et sapien
heresim ut patet xl. d. si papa et no. arch. et .10. an. in
[illegible] in fide [illegible] conclauditur quia ista qui statuit
[illegible] cum sit facta post prohibitionem concilii sit nulla et
[illegible] hoc clare probat etiam constitutio concilii que determinat quod si
infra diem dictum fuerint fre gre et fre non erunt conferre
[illegible] illas quibus si non applicat facias ante quam
[illegible] sine consilio fortius non intelligitur applicare postea
[illegible] ex toto, tamen lemus voluntatem gre faciende qua
[illegible] de si [illegible] ex tunc de res sp. audita de [illegible]
[illegible] et per hoc facit optime illa constitutio que vult quod
nullum preiudicium generetur magistro
hospitalis ierosolimitani et conventui Rodi quasi velit consti
tutio quod si ex illa applicatione fieret preiudicium magistro et con
ventui rodi quia forte preiudicavit eos vel concesserat
aliquid in eorum preiudicium quod dicte gre non intelligantur
applicate sed, sicut fuit dicimus hunc aliquid [illegible] quod
concernat preiudicium mag[illegible] conventus non est applicata
set penitus reprobata

Septimum dubium quia post bullas petri de luna [illegible]
ante provisionem magistri generalis eiusdem adversarii fuit con
cessum ipsi alfonso per dominum lucam de Salinis locum tenentem
magistri et conventu rodi cum tunc magister generalis fuisset
absens a conventu in remotis de dicto priorato quae provisio ut in
ea apparet est sigillata solo sigillo ipsius locum tenentis
an predicta faciat fidem cum non constat quod conventus eam re
clamaverit aut ei contradixerit et ipsum sigillum non est
in actis sufficienter recognitum Solucio

Super septimo dubio videtur quod debeat adhiberi fides quia ex quo
scripture apponitur sigillum illius qui facit actum et ad
ipsum expectat exercitium illius actus statur suo sigillo [illegible]
[illegible] et patet ex notis de prescriptionibus post cessiones
et per mor. de eo qui sin. or. suscepit motum et de si instrumen
c. ii. [illegible] constare per testes et per stabilimentum
ordinis locum tenens absente magistro habet potestatem con
ferendi preceptorias et priorates cum conventu ergo suo sigil
lo in talibus est credendum et licet non sit recognitum
vel probata facta quod sit sigillum illius non videtur quod ex hoc non
inducat probationem quia prima facie presumendum est quod scriptura
que apparet publica ut in c. ii. de fi. instrumentorum et applicare

sigillor que apponunt in scripturis debet fieri an est notum
an sint sigilla illorum Set qui non est odio mortem nunc requi
ritur probatio q sit illius sigillum ut patet in hijs que
leguntur et no de ele. pegri c. p. et pen. prout istud sigil
lum alis sint recognitum et approbatum p iudicem or
dinarium [illegible] pro sint insinuatum ut patet ex
instro publico set insinuato instrumenti no f . i . ordi
narium in[illegible] plene conostat iudex de instrumen[illegible]
originali tam circa scripturam quam circa [illegible] illa signa
et sigilla ut patet ex no. de testi. significauit. et. c. al
berius. de fi. instru. c. fi. de. pun. cum olim p. et sup isto
ordinarius interposuit auctoritatem et decretum et sic protulit sen
tentiam et p sua iudicis [illegible] est. de re in presencia
de electi bone p. de re iudi. sicut ex quo agitur a pet
talis approbatio licet nunc de non non apprehensio sufficiat
ar. eor que no. io. an. in. ad. spe. de. proba. Cum aute
B si autem no pt h[illegible] in. ad. que incipit si an constabit
ubi patet q si sunt alis facta approbatio sigilli illa sufficiunt
g [illegible] adhiberi fides q sit sigillum illius ul
sulicem ad tollendum suspicionem ultra illud exigi
iuramentum quia [illegible] illa approbatione ordinarij ad
iuramento p durenus bidere sufficere quia p sola argu
menta et presumptiones pt fieri approbatio talium sigillor
ut no. no. p. ost. de. ele. pegri intra quatuor

Hericio

[illegible] ex morte [illegible] in uno ex dnis que a nobis fuerat [illegible] percatus [illegible] requisita
[illegible] in dubium an [illegible] de qua [illegible] decisione [illegible]
[illegible] respondi [illegible]
[illegible] et [illegible] casu [illegible]
[illegible] ne [illegible]
[illegible] est superior
[illegible]
[illegible] est [illegible] multi [illegible] beneficio curato cura [illegible]
[illegible] magna [illegible]
[illegible] gratia ad beneficia [illegible] cura [illegible]
[illegible] curata [illegible] solet [illegible] et
[illegible] uidemus [illegible]
[illegible] tempus [illegible] inferiora [illegible]
[illegible] parochiales [illegible] uno dictu intelligeretur [illegible] alio ut dt [illegible]
[illegible] cura [illegible] multo magis [illegible] simpl.
est ad utrumque referre que est [illegible] ratio quare motus [illegible] non
[illegible] imperans [illegible] non est ex alia [illegible]
[illegible] beneficia tales qualitates [illegible] dignioribus ordinante [illegible] deliberate [illegible]
ista autem ratio [illegible] utraque cura [illegible] non ob [illegible] licet [illegible]
[illegible] illa [illegible] parochialis [illegible] ad alia beneficia [illegible] cura [illegible]
[illegible] penalis [illegible] qua [illegible]
[illegible] plurimi uidere [illegible] ut [illegible] decisio [illegible] casu [illegible]
nam dispositio testatoris fit [illegible] non [illegible]
ex [illegible] qualitatibus [illegible] legat [illegible] fullonibus exercentes
an ueniant [illegible] fullones [illegible] textores quos [illegible] non [illegible] textores [illegible]
[illegible] non [illegible] legatis [illegible] si [illegible] urbanus [illegible]
[illegible] qualitas [illegible] peculio [illegible] argento [illegible] legat. [illegible]
[illegible] plus debeat extimari cura [illegible] dignitas [illegible] honor [illegible] honor
[illegible] est ut [illegible] testamento [illegible]
[illegible] qualitate [illegible] dispositi[illegible]
[illegible] dispositis [illegible]
[illegible] legat lana [illegible] non ueniet lana tincta [illegible] illa lana [illegible]
[illegible] ut [illegible] lana [illegible] in proposito [illegible] dignitas [illegible]
non [illegible] legat lectum non ueniet [illegible] que [illegible] illa
[illegible] in proposito est dicendum a simili
[illegible] uidere [illegible] responso [illegible] in gratia
[illegible] natura fauorabilis [illegible] facultas [illegible] beneficia non
[illegible] curata [illegible] non est ambiguitas [illegible] motu [illegible]
[illegible] uidere [illegible] qui tenet [illegible] alios [illegible] motus [illegible] non
[illegible] casibus [illegible] expressis [illegible] non est expressus [illegible] licet cum
[illegible] non [illegible] iura que dicunt non uenire [illegible] gratia
[illegible] dignitas aut cura non dicit [illegible]
[illegible] motus [illegible] est [illegible] ut illa [illegible]
[illegible] aliqua [illegible] natura non [illegible] motus [illegible] non [illegible]
ut dt [illegible] non [illegible]

[illegible] videtur [illegible] an posito quod illa verba dicantur que non spectant ordinaria
dispositione ali[illegible] [illegible] ut [illegible] electio [illegible]
et quod terminus quod non [illegible] probationem in 2o responso. stat enim
simul ordinaria dispositione pertinere ad unum et electio ad alium ut probat tex
ibi [illegible] quam [illegible] nam ille terminus est universalis [illegible] ordinaria
et ideo licet postea in littera administrationis ponatur [illegible]
fuit dispositum illa verba tamquam dependentia [illegible] tamen non [illegible]
mentis quod [illegible] sit electionis [illegible] est ibi terminus
[illegible] ponderet [illegible] quod illa littera non [illegible] est subreptitia [illegible]
[illegible] ibi ille qualitates et ponderet [illegible]
transmissio si [illegible] fuisset [illegible]
[illegible] non [illegible] esset illum administratorem [illegible] nam illa [illegible]
emanavit ut apparet ex eius tenore et sic non fuit littera [illegible]
[illegible] aptior [illegible] littera gratiosa [illegible] non ut
non [illegible] in nobis de elec[illegible] [illegible] et ideo quia
non debite expedita est [illegible] suspecta et ex [illegible] quod remissio
[illegible] est ut [illegible] probat sit debite [illegible] gratiam
meam [illegible]

nuit · C. Xrois
Benficij.
x rrenc m [illegible]

in n.117 venditiae or Permut. Benefic. & Doli [illegible]

[illegible]

[illegible] [illegible] ellationi [illegible]

Re[illegible]

[illegible]onclu[illegible] in [illegible]

sp. ig.

Excommicatz

[illegible]

[illegible] nulla [illegible]

[illegible] appellaci[onem] [illegible]

[illegible] appellacionem [illegible]

De opariciis extrajudicialis p[ost] appellac[ionem] no[n] nocet.

[illegible]

appellacione pendente compaciuntur et actum [illegible]

[illegible]

[illegible] quatinus eo modo [illegible]

[illegible]

In mat. nullit. sentie

[illegible]

[illegible]

[illegible] Not.

[illegible] allega
ones

[illegible]

[illegible]

... probat ... [illegible]

... et probat ... [illegible]

... possessionem ... [illegible]

... actionem abbatisse ... [illegible]

... [illegible] probatur

... [illegible]

... in petitorio et possessorio

Terminus appellationis xii currit mensibus.

Ius prorogatus ... [illegible]

Subditus an possit iudicari [illegible]

Nemo dat quod [illegible]

[illegible] sunt alio[illegible]

[illegible] ut i. l. [illegible]

[illegible] Sed hic replicat p[illegible] et dicit q(uo)d

[illegible] sunt alio[illegible] dicere tamen cuique uno pro culpa sit considerandum co

[illegible] plus [illegible] uno [illegible] pro [illegible]

sunt ut i. l. [illegible] de [illegible] et no(tatur) gl(ossa) [illegible] que maior [illegible] de

[illegible] de [illegible]

[illegible] plus [illegible]

[illegible] ipsum ad [illegible] quod respondet [illegible]

[illegible] debet [illegible]

[illegible] Sed [illegible] non habet [illegible]

[illegible] habet [illegible] aliquid [illegible]

[illegible]

[illegible] investigandum [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Jn meit. Ꝓbendę.

plualitas cum solutis singularitates.

[illegible]

[illegible] in [illegible] omni [illegible] [illegible]

[illegible]

et possessore.

Post [illegible] in [illegible] et libello [illegible] de qua [illegible]

[illegible] confitetur [illegible]

Item [illegible] in prima instantia [illegible] ad curiam [illegible]

[illegible]

Item fuit [illegible] alia commissio [illegible] in curia [illegible]

[illegible] commissionem [illegible]

Deinde [illegible]

[illegible]

Post [illegible] commissionem [illegible]

[illegible]

[illegible] appellationis [illegible]

[illegible]

[illegible]

procedat ipso iure [illegible] de cuius probat(ione) [illegible] [illegible] in c. in[ter] dilectos de exc(essibus) p(re)la(torum) in p(rim)a glo(sa) [illegible] [illegible] [illegible] in [illegible] dicitur ad p(ro)p(ositu)m q(uod) exceptio heretica si non sit notoria admittatur contra agentem [illegible] et sic p(ate)t [illegible] non [illegible] q(uod) de ea [illegible] [illegible] [illegible] quia tunc notoria [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de qua [illegible] [illegible] [illegible] agentes et [illegible] [illegible] [illegible] favorabilior [illegible] [illegible] [illegible] [illegible] in regula [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de dicta adhesione [illegible] probari [illegible] si non sit probata [illegible] [illegible] [illegible] [illegible] prout [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad absolutoria(m) non sufficerent [illegible] [illegible] in [illegible] [illegible].

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] spoliati [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] privilegium [illegible] spoliatus [illegible] [illegible] privilegio [illegible] [illegible] allegaverit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] privilegium [illegible] adhesione [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] non sit notoria [illegible] [illegible] debet admitti [illegible] [illegible] [illegible] [illegible] possessorio [illegible] [illegible] petitorio. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de dicta adhesione admittenda et probanda [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] commissione adhesionem contra [illegible] petitorio agitur [illegible] [illegible] [illegible] actor petitorie [illegible] [illegible] libello [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] adhesione [illegible] [illegible] non [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dictum est

[illegible]

Beneficij

Notorij

Possessorij

Petitorij

[illegible]

... ad ecc'/ cathedrales ...

... d'ncit clic' ut patet i libello p cu

... n sit res imobilis ecc' no

possit q'que modo ... alienare clico v' alieni

bntico ut i aut' d' ecc' ...

qd no. gl' i aut' si rus potuit ... et g° v° ... preb...

ut i dca aut' q' sm aut' ecclesie ... plebei' clico

Nec ob. q' clicus dicit q' ecc' sibi ne... contra

emphi(ta) q' videt' q' n' p interposita psona tales rez possidere | cu i. d. c. sit cu

ut lex prus clicus ut i aut' d' alie z emphi. q' yconom' ...

ubi aut p seruet ipse aut p interposita psona // si ca ne possit

emphi ecc' quo modo vedat qd e ca influens i emphiteotam ulte

nuniis emphi(ta) ... a uiori potentia cause efficiens

d'fin cause influens ut i sp' no. bal i d. l. 1 C. d summa

trini // Nec ob. q' p clicus dicat q' ipe no ... iura

ecc' b' iura q' fuerit antiq' emphi(te) q' petit iura plebeia

clicu possidere no locut' solu de directo dnio eccle q' illd

ne du q' ne sit ... ad ... imo n' ad ...

ut d. aut' hoc ius porrectu ... illi ... ne alie

i si ecc' d familia ... ut i aut' d' ne alie q' qd aut'

... coll ... Et si dicat' q' clicus ne ... possessionem

... sibi ... q' spales ... titulo obligatam ...

respondet' q' e spalis ... plebei' ut i d c illi i aut' hoc

porrectu ... i aut' d ne alie ... z ... q' subiectus

... ut p alios gubnata ... z marie i au

... fidus ... z ... omni alienat

... ab eo ... ecc' ... possit ...

i sanguinez ... qui ... peteret effud ... rez suos

qd ne du no ... imo abusiuus est // ... clicus non

possit tale rez ... habe' patet q' ecc' cu sit sanctissima z oi honore

digna no admittit infames z viles psonas ut sunt clici

ut i. q. d' summa trini. ad ei' emphiteosim ... grossa ...

q' si z filios admittat bastardos ut al' ... natos ut no ...

i. l. ex facto § si q's rogatus ad trebel. ... iudeus no

... q' ora ...

[illegible]

[illegible] ecclie [illegible] capitu-

[illegible] capitularis [illegible]

seruare.

[illegible] pellitȝ · et involucri
[illegible] gladio [illegible]
[illegible] r. glutt· [illegible]
et [illegible] non est in mat. [illegible] confic[illegible]

[illegible]

[illegible] dictam [illegible] [illegible] eadem [illegible] [illegible]

[illegible]

[illegible] quod [illegible]

[illegible]

[illegible] de [illegible]

[illegible] ad [illegible]

[illegible]

[illegible] dicti [illegible] de Joanne [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] de [illegible]

[illegible]

[illegible] ecclesie et [illegible] mon. [illegible]

professionis [illegible] dum [illegible] altero [illegible]

[illegible] in aliquacionem omnium creatorum et [illegible] apparentia [illegible]

[illegible] iudicium [illegible] et dominum [illegible] p. [illegible]

[illegible] usque ad finem [illegible] [illegible] [illegible]

[illegible] p. [illegible] [illegible] in for[illegible] [illegible] [illegible]

omnium [illegible] et [illegible] [illegible] [illegible] [illegible]

[illegible] ad [illegible] in [illegible] [illegible] [illegible] et [illegible]

[illegible] [illegible] [illegible]. [illegible] p[illegible] [illegible]

[illegible] [illegible] infrascriptas [illegible] et illas [illegible]

[illegible] [illegible]. Et [illegible] [illegible] [illegible] app[illegible] ab [illegible]

[illegible] illum [illegible] [illegible] [illegible]

Concludo [illegible] male et [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] et [illegible] et [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ... non ... quod ... [illegible]

[illegible]

... tacite obiectionis ... [illegible]

... [illegible] ... verum ... [illegible]

possit opus provisione talis rescripti quod ... [illegible]

factus vicinior ... stabilitum ... si non ... [illegible]

ut no. in c. statutum de re. li. 6 ... non valet ... [illegible]

vicinior iurisdictionis ipso iure mutuis quo ... si non ... [illegible]

cuivis processus ut no. in dicto ... statuimus ... facit ...

de d. c. prudentiam qui dicit. et si processerit nihil reputabitur

gestum. sic ergo per ... nullitatis est ... dicta

loquutoria ... tamquam ... iudicis ordinarii ... [illegible]

que possent allegari in contrarium quod glo. pallis c. prudentiam satis

copiose et sufficienter respondet faciens distinctionem ...

iudicis ordinarios a ... possunt ... [illegible]

... [illegible] ... et iudices ... [illegible]

quorum alter non potest ... [illegible]

[illegible]

... [illegible] ... ordinarii

... iudices ... quorum alterius ... [illegible]

... [illegible] ... et ... [illegible]

... de ... [illegible] ... malitia ... [illegible]

... [illegible] ... ignorantia ... [illegible]

[illegible]

[illegible]

[illegible] quod [illegible]

[illegible] commissam [illegible]

[illegible] [illegible] [illegible] [illegible]

nam neminj dubium [illegible] adire [illegible] [illegible] [illegible]

[illegible] ad appellandum [illegible]

[illegible] [illegible] [illegible] adire [illegible]

potuit appellare [illegible]

[illegible] illud [illegible] [illegible] [illegible]

[illegible] in [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] in [illegible] [illegible]

cum suis [illegible] [illegible] ab [illegible]

[illegible] cum suis [illegible] quo [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] transiuisse [illegible] [illegible]

[illegible] a [illegible] [illegible]

[illegible] dictam [illegible] [illegible]

[illegible]

[illegible] recitari aut[illegible]

[illegible]

cum transeant actor [illegible] [illegible] [illegible] et [illegible]

idem [illegible] actor et reus [illegible] potentiam [illegible]

[illegible] [illegible] non pot[illegible] [illegible]

illa [illegible] dicit. In qua [illegible] reus [illegible] adiun[illegible]

cum [illegible] eadem [illegible]

[illegible]

Postea [illegible] appellare dicitur do. Ioannes q. 2 [illegible]

[illegible] [illegible] admittit illa do. [illegible]

[illegible] arbitrio [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] aliorum [illegible]

[illegible] ad [illegible]

[illegible]

... dic. declaram. et no c. q ... [illegible]

Ecciam consequencia q illum ... suspensum [illegible]

... et ... ita apparet ... glo. [illegible]

... venit ... et ... spirituali appella[illegible]

legitima ... [illegible]

... talis ... [illegible]

... casum et ... juris.

... dico q ... premissa talis ... non potuit [illegible]

[illegible]

[illegible] modi [illegible]

[illegible] canonici [illegible]

[illegible] indicare [illegible]

[illegible]

[illegible] dico [illegible] non velimus [illegible]

ad [illegible] [illegible]

primo quia ipse [illegible] [illegible]

dicti [illegible] et [illegible]

non [illegible] [illegible] si [illegible] non [illegible]

[illegible]

[illegible] si [illegible]

nullus [illegible] ad [illegible]

[illegible]

[illegible]

[illegible] ad [illegible] dicti [illegible]

[illegible] ordinem [illegible]

[illegible] alioquin [illegible]

[illegible] diffinimus

[illegible] ordine [illegible] nullus [illegible]

[illegible] et [illegible]

dico non velimus [illegible] dictum dominum Johannem a [illegible]

[illegible] regularem [illegible]

95 [illegible] alioquin [illegible]

[illegible] et illa [illegible]

[illegible] ille [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ad tale [illegible]

[illegible] talem [illegible]

[illegible] filijs [illegible]

[illegible]

[illegible] dispensari [illegible]

[illegible]

[illegible]

[illegible] dispensacione [illegible]

[illegible] admitti ad [illegible]

[illegible]

non possit [illegible] filio [illegible]

corpus. In vero [illegible] regulam [illegible]

[illegible] est. quod ex isto beneficium non

fuit dictum [illegible] dispensacionis [illegible] viderint [illegible]

[illegible] nam non est dubium quod [illegible]

[illegible] possidere canonicatum in [illegible] adquirere quem

admittere [illegible]

Ex quo sequitur quod si sibi obstante [illegible]

admitteretur ad illud beneficium quod [illegible] dignus

[illegible]

Consideratio [illegible] alia [illegible] dicto beneficio

[illegible] personam dicti beneficii non [illegible]

[illegible] beneficio vacante [illegible]

quod beneficium [illegible] vacaverit [illegible]

quod vacaret [illegible]

[illegible]

m nat. Coll.ti [illegible]

In causa vertente inter Fr. Nicolaum confraternitatis actorem ex una
et Fr. Victorem de Corado reum et conventum ex altera, nam agit
coram R.do ac excellentissimo iuris consulto, qui ex causis multis in
[illegible] certis viribus agendum erit dubitatur, ideo videtur consulere in
[illegible] et videre an, a sententia R.di D. Ioannis Antonii de [illegible]
[illegible] vicarii tunc lata super peremptione instantiae fuerit bene
[illegible] et [illegible] pronuntiatum, veniat iuxta petita per [illegible]
[illegible] Fr. Nicolaum, secundo an fuerint adeo probate exceptiones per
victorem predictum quod veniat absolvendus a petitis et [illegible] ad [illegible]
dico et concludo ex parte dicti Fr. Nicolai fuisse et esse bene [illegible]
[illegible] et ex parte Fr. Victoris male iudicatum, et [illegible]
et esse pronuntiandum iuxta petita per [illegible] nam sententia [illegible]
peremptione instantiae lata fuit et est nulla [illegible] nullitati [illegible]
[illegible] nam lata fuit contra dispositionem statuti [illegible] in [illegible]
[illegible]

[illegible] Et victoris [illegible] ex confessione ipsius [illegible]

[illegible] tenendi [illegible] in eius domo in [illegible]

[illegible] et nulla [illegible] probatis [illegible] confessione [illegible]

[illegible] in l. [illegible] de [illegible] obli. et in l. [illegible]

[illegible] de [illegible]. Nec [illegible]

[illegible] in [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Forma dat esse rei

Forme omissio viciat actum

Exceptio dilatoria in dilatoria [illegible]

Exceptio peremptoria in dilatoria [illegible]

Pratica est [illegible]

Minime sunt mutanda que interpretationem certam semper habuerunt.

Iudex debet adherere equitati.

Quid importat [illegible] cum omnibus itineribus, [illegible], honoribus et oneribus.

Qui omnia dicit nihil excludit.

Que quidem [illegible] [illegible] [illegible] [illegible]
[illegible]
[illegible] per nicolaum pamighin [illegible] et approbavit [illegible]
[illegible] non [illegible]
[illegible]

Ego nicolaus [illegible] de [illegible] aquilegensis dioc. publicus [illegible] notarius [illegible]
[illegible]
[illegible] fideliter [illegible] publicavi [illegible] meis [illegible] appositis in fidem
et testimonium omnium et singulorum premissorum.

Nos antonius de [illegible] delegatus [illegible] sancti danielis [illegible] badoario [illegible]
[illegible] patris et dni [illegible] divina miseratione [illegible] sancti laurentii in damaso [illegible]
[illegible] et eadem gratia patriarche aquilegensis Cognoscentes et [illegible]
[illegible]
[illegible]
[illegible] sancti danielis [illegible] qua patet [illegible]
[illegible] in causa appellationis [illegible] ac [illegible] et dilationibus Visa commissione [illegible] nos [illegible]
[illegible] et [illegible] per partes et [illegible] datis et porrectis inscriptis. Visis [illegible]
[illegible] litteris et bullis [illegible] Visis monitoriis [illegible] ad hanc nostram [illegible]
audiendam ac [illegible] per nos [illegible] ad hoc [illegible] Visis [illegible]
[illegible] de [illegible] procuratoris [illegible] nicolai Visisque [illegible]
[illegible] visa [illegible] et [illegible] et sequitur.
Christi nomine [illegible] ac [illegible] per [illegible]
[illegible]
[illegible] dni Antonii [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] appellationis [illegible] Et [illegible] nicolaus [illegible]
[illegible] sancti danielis [illegible] nicolai [illegible]
[illegible]
[illegible]
[illegible] et [illegible]
[illegible] de [illegible]
[illegible]
[illegible]
[illegible]
[illegible] dni [illegible] badoario [illegible]
[illegible] dni patriarche aquilegensis [illegible]
[illegible]
[illegible] clauso et sigillato
[illegible]

[illegible]

[illegible] appellatione dicitur appellatio [illegible] est appellatio [illegible]

[illegible] in constitutione [illegible]

[illegible] est appellatio [illegible] principalis [illegible] est appellatio [illegible]

[illegible] et in maioribus [illegible] glo. et [illegible]

[illegible] de appellatione [illegible] totum [illegible]

[illegible] nullitate et appellatione [illegible]

[illegible] maxime [illegible] appellatione [illegible]

[illegible] remaneat occulta [illegible]

[illegible] et suppleatur in causa appellationis [illegible] notatur [illegible]

[illegible] appella [illegible] appella. [illegible]

[illegible] ibi nulli dubitatio est et sic [illegible]

[illegible] indubitatum [illegible] ipsa non [illegible]

[illegible] appellat usque ad terminum [illegible]

[illegible] infra tres menses sunt deserte [illegible] ita est quod infra dictum terminum [illegible]

[illegible] ipsum fuisse latum die [illegible] julii et die [illegible]

[illegible] infra terminum decem dierum. Item patet [illegible]

[illegible] fuit [illegible] in causa ipsa ut sit infra tres menses [illegible]

[illegible] barbadico tunc locumtenentem patrie [illegible]

[illegible] causis non currunt aliquod tempus neque instantia quam declarat [illegible]

[illegible] ostendit [illegible] causa [illegible]

[illegible] dubium [illegible] non [illegible]

et ex hoc [illegible] dico dubium [illegible] expedita [illegible]

et frustra super 3° et 4to. dubio disceptare [illegible] duo [illegible]

tunc videretur [illegible] transivisse in rem iudicatam. [illegible]

[illegible] in contrarium allegata videntur [illegible] contradicendis [illegible]

[illegible] nullitate [illegible] appellat [illegible] nullit [illegible]

[illegible] ostendit et probat [illegible] est [illegible] legem sine [illegible]

nullum [illegible]. [illegible] et omnia que exinde secuta [illegible]

.c. de legi. [illegible] est casus et hic. et est ratio quia destructo principali fundamento [illegible]

[illegible] legis [illegible] lex mandat actum fieri [illegible]

[illegible] mandat actum fieri sub certa sollemnitate [illegible]

[illegible] nullus [illegible] est glo. [illegible]

[illegible]. Et sic notatur et dicta l. non dubium. et ex dicta glo. quod sicut [illegible]

[illegible] appellatio [illegible]

[illegible] in causa [illegible]

[illegible]

[illegible] et sermo in principali [illegible] latam fore validam ac tenere et valere [illegible] videtur peremptio instantie que allegare possit videtur [illegible] declaratum fuit instantie cause appellationis predicte post [illegible] talis declaratio nihil operatur post effluxum [illegible] locutionis [illegible] quod postea hactenus practicatum et observatum est quod instantie [illegible] non [illegible] post informationem [illegible] ipsa pratica [illegible] legum interpres. l. si de interpretatione ff. de legibus Et quod minime mutanda sunt que longam [illegible] minime [illegible] quod observatum est quod [illegible] allegatur [illegible] exceptio non opponatur [illegible] exceptioni. Ideo [illegible] que tamen iudicio meo de iure sunt vera non obstante [illegible] [illegible] quod tenetur [illegible] l. placuit C. de iudi. [illegible] approbabilis et appellat [illegible] valida et non [illegible] forma [illegible] allegatus vel [illegible] legitime latam ac causa et instantia [illegible] clarissimo [illegible] forma [illegible] actu fiendo si talis forma non fuit [illegible] allegat [illegible] non dubium [illegible] allegans [illegible]

[illegible]

... vel saltem ... [illegible]
... [illegible] ... de richerus. his non obstantibus ...
... [illegible] ... legitime facta et contra ... valida sit ...
... venditio sit facta non ... [illegible] ... seu forma tradita a ... allegata ...
... negatur ymo inconveniens est ... nam ex presso apparet quod nullus ...
... ponere ipsa bona nedum usque ad integram satisfactionem debiti ipsi ... nicolai ...
ducatos decem. Item apparet quod ex hoc ... [illegible] ... post ...
predicta ... agatum ... ipsi ... nicolai cum ... declarari ...
... ipsi ... nicolai posse ponere ipsa bona ad incantum usque ad integram satisfactionem ...
non ... [illegible] ... emptor ... bona ponit usque ad summam ... sic apparet ...
... et vigore dicte declarationis ... formam predicti statuti et constitutionis ...
deliberatum fecit sibi dicto ... dictis ducatis ... [illegible] ... nec ...

[illegible]

... Item non obstat ... [illegible]
... posse bona sua distracta ... [illegible]
... [illegible] ... bona sua distraheret ... [illegible]

[illegible]

[illegible] pluribus vere [illegible]

[illegible]

[illegible] ... p al [illegible]

[illegible]

ne et deliberatio facta [illegible]

nec non dicta sententia ultra lata [illegible]

quod ipsa constitutio ipsam vendat alter [illegible]

municipalis patrie servanda est [illegible]

que fiunt contra legem non valent [illegible]

alle. Et sic est quartum [illegible] in allegatione [illegible]

non obstante. Dico ipsam [illegible]

ipsum [illegible] dicte constitutio non loquitur in casu nostro [illegible] loquitur [illegible]

alicuius qui non esset presens ad incantum nec per se nec per alium incantu [illegible]

personem et sic constitutio fuit inducta ad [illegible] fraudem [illegible] posset [illegible]

[illegible] presente [illegible] posse incanta [illegible] ... Et posito quod [illegible] constitutio [illegible]

generaliter in quocumque incantu facto pro absentibus dico [illegible]

etiam pro absente sed presente quod factus fuit per [illegible] agatum patrem [illegible]

per nicolaum patrem cum [illegible] nomine ipsius nicolai fecerit ipsum incantum [illegible]

facit per se ipsum facere [illegible] Et [illegible] consentit [illegible]

prout cottidie fit et hactenus praticatum est, que quidem pratica est [illegible]

interpres. L. si de interpretatione. ff. de le. a qua quidem pratica minime [illegible]

est. quia minime mutanda sunt [illegible] interpretationem [illegible]

ff. eo. et quia ita sit pratica [illegible] declarationem [illegible] per iudicium [illegible]

declaratum est [illegible] agatum [illegible] nicolai posse poneri ad [illegible]

bona usque ad integram summam sui debiti pro qua quidem sententia [illegible]

ff. de sta. ho. ubi dicit quod sententia pro veritate habetur. Item per dictam constitutionem [illegible]

ipsam habere locum incantu facto per personas pro absentibus que [illegible]

sentibus [illegible] Et ex his sublatis est [illegible] dubium et [illegible]

res ista remanet clara et expedita et etiam quo ad omnia alia [illegible]

[illegible] facta [illegible] predictam sententiam [illegible] fratrum de [illegible] in allegationibus

predictis. Ita [illegible] predictis [illegible] incontrarium [illegible] dicta sententia

est [illegible] legitime lata et [illegible] ut patet ex [illegible]

[illegible] et dubia in contrarium adducta. Ex quibus omnia predicta argumenta [illegible]

[illegible] responsionibus [illegible]

deducam ex quibus omnibus dico ipsam sententiam validam et iustam tamquam legitime et [illegible] form

iuris latam ut patet ex predictis meis responsionibus. Unde [illegible]

[illegible] ego lodovicus salodien[sis] [illegible] capitaneus antedictus [illegible] dominus [illegible]

in pronuntiando et sententiando ac declarando ipsam sententiam esse validam et iustam [illegible]

et iuste latam per [illegible] iudicem et consequenter [illegible]

nullitate dictum et appellatum per [illegible] fratrum de [illegible] necnon in confirmando

dictam sententiam. Item in condemnando [illegible] fratrum de [illegible] et dictis fratribus suis [illegible]

[illegible]

[illegible] medul eluditate potuit quod secundum ea que conuenta sunt [illegible]
[illegible] fratrem nicolaum [illegible] maiora ipsis fratribus si usus est beneficio legis videlicet constitutionis
[illegible] de creditoribus non ualentibus et cetera in emendo ipsa bona pro ducatis 350.
[illegible] in termino sibi indulto per constitutionem patrie. si uolunt de satisfactione [illegible]
fratri nicolao. et si non uolunt retinere: ipse frater nicolaus tenetur restituere illud plus [illegible]
emit ultra debitum suum licet potuisset ipsa bona emere pro eo in quo sibi tenebantur
ipse frater nicolaus uolens satisfacere conscientie sue pro bono ipsorum fratrum emit seu [illegible]
fecit ipsa bona ultra suum debitum sed ipsi fratres lapidantes eum de bono opere opposuerunt
dicte emptioni ista argumenta friuola [illegible] ut patet ex responsionibus [illegible]
etiam breuiter submitto. Et primo non obstat quod dicitur ipsum fratrem nicolaum non scripsisse [illegible]
predicta cum fructibus que communiter soluuntur [illegible] forma constitutionis positis sub [illegible] de
perfectione bonorum quia respondetur quod ymo in ipsa cedula fuerunt scripta dicta bona cum [illegible]
[illegible] habito respectu ad infrascripta facientia mentionem et ipsis bonis et fructibus que [illegible]
communiter ad que infrascripta dicta cedula se refert dum dicit ut patet publicis instrumentis [illegible]
certum dicere uel se ad certum referre: ut predixi et habito respectu ad uerba in ipsis [illegible]
[illegible] dum dicit cum omnibus iuribus et pertinentiis honoribus et oneribus [illegible]
[illegible] fructus qui percipitur ex dictis bonis ut est ostensum et probatum est. Item quod dicta [illegible]
[illegible] fructus non est sollemnitas substantialis in dicta constitutione unde eius omissio non [illegible]
et sic non posset dici nulla dicta uenditio et [illegible] quia etiam fructus predicti non fuissent scripti [illegible]
ipsa cedula [illegible] re uera dici potest ipsos scriptos fuisse. Item non obstat [illegible] argumentum [illegible]
[illegible] dictam uenditionem et [illegible] non ualere tamquam factam contra constitutionem sub [illegible]
[illegible] immobilibus uendendis que constitutio dictat quod nisi bona uendantur in [illegible]
[illegible] possunt postea uendi nisi [illegible] debitorum [illegible]
quia respondetur ut predixi quod dicta constitutio loquitur [illegible] facto per [illegible]
per creditorem quo casu loquitur constitutio sub [illegible] de creditoribus. Et sic non obstat [illegible]
de dicta constitutione de bonis immobilibus uendendis cum non habeat locum in casu [illegible] ualentibus
[illegible]. Item non obstat [illegible] argumentum [illegible] de constitutione sub [illegible] de creditoribus [illegible]
[illegible] in fine [illegible] quia respondetur quod licet dicta constitutio dicat quod creditor possit [illegible]
[illegible] debiti [illegible] dicta constitutio inhibet ipsi creditori [illegible]
ultra debitum suum [illegible] permittit quia dicta constitutio [illegible] est fauorabilis [illegible]
[illegible] est restringenda sed amplianda ut predixi ymo multo magis [illegible]
[illegible] ipsa bona ultra debitum suum pro fauore ipsius debitoris [illegible]
bona usque ad debitum suum [illegible] nullus est qui ipsa potuit usque ad dictum debitum [illegible]
dicti debitoris quia [illegible] de quo minus [illegible] et [illegible] de quo magis [illegible]
C. de sacro. san. ec. [illegible]. Et non obstat [illegible] dictam uenditionem [illegible]
[illegible] nullam tamquam factam contra formam constitutionis sub [illegible] de bonis [illegible]
[illegible] quo dictat non posse fieri [illegible] de alienatione bonorum ad instantiam [illegible]

[illegible] fructus fuit [illegible] de bonis [illegible] p dco [illegible]
[illegible] ut q d. nicolaus hoc casu no dicitur absens sed dicitur pns et represnta
[illegible]
loquitur dca constitutio s. loquitur qn pro p aliquo absente incantaret aliqua bo
[illegible] p. onen incantarentur
bona ipa ad instant absentis quo casu dictus incantus no valeret [illegible]
[illegible] aut etiam [illegible] et in quocumq incantante no habere
[illegible]
[illegible]
insuper ut [illegible] et p consequens no obstat [illegible] Et ex [illegible]
responsum suprascriptis quo. argumentis in contrarium allectis p ptes [illegible]
cherius et p [illegible] facta [illegible]
argumenta et fundamenta [illegible]
Et ad corroborandum ista responsa p me facta [illegible]
iudicum [illegible] qua declaratum est ipm petrum [illegible]
bona ad incant. usq ad integram debiti satisfactionem et nulla data noticia ipo
[illegible] nec non d liberatio [illegible]
cam 350. consensu et man. [illegible] iudicum p qua sna et iuditio [illegible]
in l. herennius C. [illegible] ff. de [illegible] et in l. ingenuum ff. de sta. ho. et l. [illegible]
qui accu. no pos. ex quibus omnibus res ipa remanet clarissima p dco d. nicolao [illegible]
[illegible] laus deo.

Et ita ut supra [illegible] dico et consulo ego ludovicus salodien. capitaneus [illegible]
[illegible] minimus. Et ad fidem [illegible] me subscripsi et mei sigilli [illegible]
[illegible] munivi. Visis omnibus videndis CHRISTI noie invocato p hanc nram
sniam diffinitiva dicimus [illegible] pnutiamus et diffinimus [illegible] in omnibus et p omnia
ut in dco consilio [illegible] p spec. dnm ludovicum salodien. capitaneum [illegible]
[illegible] nos electum ad consulendum [illegible] latius et diffusius [illegible]: et apparet. quam
sniam dns georgius [illegible] laudavit et approbavit [illegible] executionem [illegible]
fieri. Tunc d. x.forus dixit ipam sniam latam [illegible] esse iniquissimam et enormem
et nullam et nullius valoris Et [illegible] esset aliqua [illegible] si [illegible] appella
[illegible] ad quem [illegible] pendente appellatione nil [illegible] in nova [illegible]
[illegible] etiam de damnis [illegible] Qui dns georgius [illegible] no posse appella
re [illegible] decretum ducale p quod patet [illegible] no pot
appellari [illegible] et ita petit pnutiari. qui d. x.forus dixit posse appellare q
no sunt due [illegible] et negat [illegible] decretum [illegible]
sniam statuit terminum dno georgio [illegible] de [illegible]
quentem [illegible] decretum ducale. qui d. x.forus [illegible]
[illegible] sniam appellationem [illegible] de nullitate et [illegible]
Tunc dns georgius [illegible] donec [illegible]
donec pduceret ipm decretum [illegible]
dni [illegible] sniam pnutiavit no currere [illegible] appellationi
donec docuerit de decreto georgius [illegible] noie

Lata data et in his scriptis pnutiata fuit ista snia diffinitiva [illegible] millo
quadrigentesimo quinquagesimo octavo indict. sexta die Jovis octavo Junii actum in palatio cast
[illegible] ante cameram parvam loco idoneo [illegible] d. odorico de pilloso [illegible] de marq
dis et luca pedretta [illegible] de scto daniele et ser gerardo de portunavo testibus et al. pluribus ad [illegible]
vocatis et rogatis.

[illegible]
[illegible]
[illegible]
consilio sapientis per alium fidelem scribere feci in hanc [illegible]
et diligenter cum prothocollo aus auscultata fuit ideo me sub[illegible]
[illegible] consuetis in fidem et testimonium omnium premissorum

Tertia [illegible]

[illegible] invocato eiusque gloriosissime genitricis nec non gloriosi doctoris hieronymi
[illegible] NOS Beraldinus de [illegible] decretorum doctor [illegible]
[illegible] delegatus cognoscentes [illegible]
[illegible] vertitur inter [illegible] de [illegible] et [illegible]
[illegible] ser [illegible] de [illegible]
[illegible] tutricem tutorio nomine pupillarum filiarum et heredum
[illegible] actorem et [illegible] parte [illegible] altera occasione venditionis certorum bonorum immobilium facte publice ad incantum ad instantiam et petitione [illegible] contra [illegible] fratres de [illegible]
[illegible] dicunt nullam [illegible] iniuste et [illegible] non [illegible]
[illegible] conformiter cum earum processibus de consilio sapientum [illegible] in timore dei [illegible]
[illegible] et [illegible] fratres de [illegible] unaquaque extitit promulgata [illegible]
[illegible] in causa principali altera in causa prime appellationis [illegible]
delegatum a magnifico et generoso viro olim domino petro baduario patricio veneto [illegible]
[illegible] in christo patris et domini domini L. patriarche aquilegiensis in suis terris et locis patrie [illegible]
[illegible] locumtenente visa insuper appellatione per dictos fratres interposita a dicta secunda sententia
visis non nullis rescriptis apostolicis in hac causa ab utraque parte impetratis [illegible]
instantia nobis facta pro parte dictarum pupillarum visa [illegible] ad ipsa instantia visis
omnibus scripturis et intellectis omnibus iuribus et allegationibus que dicte partes voluerunt [illegible]
[illegible] breviter aperuimus difficultatem huiusmodi cause in hoc consistere [illegible]
[illegible] et incantatio facta de suprascriptis bonis [illegible] quarum fuerunt vendita [illegible]
[illegible] et translata in dictum olim ser nicolaum fuerint rite et legitime facte [illegible]
dicte due sententie approbatorie dicte venditionis sint et esse dicantur iuste et [illegible]
[illegible] dicte [illegible] et incantatio [illegible] contra vel preter formam constitutionum patrie
et sic [illegible] sententie diffinitive sint nulle aut [illegible] veniant retractande
videtur [illegible] quatuor de causis quod dicta venditio fuerit nulla primo quia [illegible]
[illegible] dicto ser [illegible] et quia in processu non fuerunt descripti [illegible] coiter [illegible]
[illegible] dictis bonis sicut requirit constitutio patrie [illegible] et venditore bonorum [illegible]
[illegible] vendendorum ad incantum que vult quod si illa die que immediate sequitur [illegible]
[illegible] videtur quod talis [illegible] non valuerit nec venditio [illegible] quod dicta constitutio [illegible]
annullat [illegible] et venditionem contra et preter eius formam [illegible] Secundo videtur [illegible] de
dicta venditione que in ea non fuit servata forma [illegible] constitutionis patrie situate [illegible]
venditione bonorum immobilium vendendorum ad incantum que vult quod si illa die que
immediate sequitur ter septem dies post [illegible] bona [illegible] que fuerint vendita [illegible]
non possint vendi nisi facta prius notificatione per cedulam [illegible] contra que [illegible]
[illegible] bona [illegible] ut apparet in processu non fuerunt incantata et vendita [illegible]
[illegible] constitutionem sed alia die [illegible] notificatione per cedulam [illegible] nulla
[illegible] quos ipsa bona vendebantur [illegible] quod talis venditio fuit nulla

prout dicta constitutio annullat [illegible] tractandum [illegible]
que videtur quod in casu non fuit et [illegible] in processu [illegible]
facta contra et preter formam alterius constitutionis patrie sancite sub rubrica de creditoribus
valentibus emere nec eorum facere bona que ipsimet vendi faciunt ad incantum
que quidem constitutio et statutum dant facultatem creditori [illegible]
decreto incantandi bona ad vocis [illegible] usque ad [illegible]
[illegible] usque ad [illegible] [illegible]
vel eius procurator non incantavit usque ad summam sed ad multo maiorem summam debiti
ut patet in processu per suam [illegible] quod talis incantatio seu venditio [illegible]
nulla [illegible] constitutionis [illegible] dicte [illegible]
alia constitutio que est sub rubrica de bonis incantatis et non deliberatis et non incantandis
nomine absentis que annullat quamcumque venditionem [illegible] incantum [illegible]
ad petitionem et instantiam alicuius creditoris [illegible] in tali [illegible]
instantia dicti [illegible] absentis ut patet [illegible]
tione et iuribus aliis supra allegatis quod talis venditio reddatur nulla [illegible] consequen-
ter que approbant dictam venditionem sunt etiam nulle. quia quotiens [illegible] et
statutum in aliquo actu dat certam formam si forma non fuit [illegible] et
omnia que secuntur ex illo. l. non dubium. c. de legibus et [illegible] de [illegible]
[illegible] cum similibus. Istis tamen non obstantibus dicendum est dictam venditionem
fuisse [illegible] factam et per consequens iuste et legitime fuisse iudicatum in dictis [illegible]
super ipsa venditione: Nam duo sunt instrumenta producta in hac causa per que dicti
[illegible] apparet debitores [illegible] in quantitate de qua in ipsis
instrumentis. pro quo debito in eisdem instrumentis sunt consignata dicta bona pro pignere
cum facultate attributa dicto [illegible] ponendi ipsa ad incantum si lapso termino [illegible]
in ipsis instrumentis non fuit sibi plene satisfactum Itaque virtute dictorum instrumentorum
fuerunt rite et legitime vendita dicta bona secundum formam constitutionis patrie et
statuti [illegible] Nam facta fuit [illegible] dictorum bonorum per cedulam dicto [illegible]
et venditio seu deliberatio [illegible] decreto cum cedula incantus in
manibus [illegible] in dicto iudicio [illegible] legitimari nullo apparente
alio qui poneret dicta bona seu incantaret usque ad summam debiti pro quo vendebantur
ut hec omnia clare constant ex processu prime et secunde instantie. nec obstant adducta
supra in contrarium quia illis facilis est responsio [illegible] quod in cedula [illegible]
non [illegible] bona fide descripti fructus qui percipiebantur ex dictis bonis [illegible]
formam traditam per supra [illegible] constitutionem de [illegible] bonorum [illegible] Nam
[illegible] respondetur quod creditor [illegible] satis bona fide descripsit fructus dictorum bonorum
quia descripsit illa bona cum confinibus et omnibus suis iuribus pertinentiis oneribus et
honoribus prout dicta bona erant [illegible] in instrumentis quibus fuerant dicto creditori
pro pignere consignata ad que instrumenta eadem cedula [illegible] habet relationem
que quidem verba vel aliud importantia [illegible] fructus et omnia onera que
[illegible] dictis bonis quia qui omne dicit nihil excludit. l. a procuratore. c. mandati. [illegible]
etiam ex quo creditor designavit in [illegible] dicta bona cum illis pertinentiis cum [illegible]
[illegible] pro pignere consignata fecit satis constitutionem [illegible] in eo fuit quia
si quid omisit de ipsis fructibus presumitur omisisse ex ignorantia cum usque ad illud tempus

[illegible] lesset nec alio mo pot habuisset dicta bona presumitur eius ignorantia nisi probetur
[illegible] contrarium in re et facto alterius regula presumitur, de regulis iuris l. vi. c. sciens
[illegible] summa [illegible]. Nec obstat quod dicitur quod iste creditor acquireret [illegible]
[illegible]
[illegible] dum tribuit facultatem creditoris debitoris cum factum est presentis adde
[illegible] de fructibus [illegible] pro post [illegible]
[illegible] parte [illegible] fuit [illegible]
[illegible]
[illegible] narrationem fructuum fore sibi utilem ut sentit dicta constitutio
[illegible]
[illegible] venditio [illegible] tione [illegible] et simul [illegible]
[illegible] vel oneribus tunc bona illa possunt cum fructibus seu oneribus
in dicta cedula incantari et deliberari. Et tunc licet plus vel minus fuerint
rata intelliguntur et habentur pro legitime venditis et deliberatis hec
ue dicta constitutione per que manifeste apparet tale solemnitate [illegible] esse de
[illegible] constitutionis per que et constat quod magis est imputandum debitori qui non [illegible]
[illegible] nec requisivit quod fructus dictorum bonorum clarius describerentur in [illegible]
[illegible] sit imputandum creditori qui dictos fructus in eadem non descripsit
Nec obstat quod [illegible] in fine constitutionis quod presentatio facta contra [illegible] formam
[illegible] constitutionis sit irrita et [illegible] quod dicta cedula refertur ad alias sollemnitates non
autem ad istam quia ex tali relatione sequeretur absurdus intellectus [illegible]
non esset omnis fructus et onera descripti non valeret presentatio et sic constitutio
sibi [illegible] cum dicat quod licet plus vel minus sint nihilominus valet [illegible]
[illegible]. Itaque propter absonum intellectum qui ex [illegible] sequeretur non potest talis relatio
[illegible] que habent [illegible] causam que [illegible] et [illegible] de liber. [illegible]. Et per hoc [illegible]
[illegible] ablata prima oppositio contra dictam venditionem. // [illegible] ad [illegible] dum dicit quod
venditio fuit delata in alteram diem et non fuit facta notificatio per cedulam [illegible]
forma constitutionis de venditione bonorum [illegible] immobilium [illegible]
quod illa constitutio non loquitur in casu nostro sed loquitur et habet locum quando creditor [illegible]
venditionem in aliam diem, et simpliciter incantantur bona et venduntur [illegible]
venditio non valet si non est facta notificatio per cedulam ut in dicta constitutione [illegible]
Nos vero sumus in casu longe diverso ab illo, nam creditor hic non simpliciter fecit [illegible]
dic incantare dicta bona quinymmo decreta iudicis obtinuit quod liceret dicta bona [illegible]
deventur ad sui [illegible] nihilominus ipsemet possit emere et incantare [illegible]
alia notificatione usque ad summam sui debiti quo casu non loquitur prealligata constitutio
in [illegible] adducta ideo non debet extendi ad casum in ea non expressum [illegible]
[illegible] astringend de verbo. oblig. [illegible] constitutio sit odiosa [illegible]
ideo restringenda regula odia de regulis iuris l. vi. [illegible]
statutum [illegible] et constitutio sub [illegible] de creditoribus non valentibus [illegible]
que nullam requirit notificationem in scriptis nec verbo et tamen [illegible]
quod ad abundantem cautellam fuit facta notificatio verbo [illegible]
est sublata secunda oppositio. [illegible] non meretur [illegible]
cavillatio quam defensio. Conqueritur enim debitor de eo quod creditor incantavit
na ad multo maiorem summam quam erat debitum suum et sic [illegible] de eo quod [illegible]
est in sui utilitatem [illegible] ipse debitor quod si bona sic [illegible] creditorem

[illegible] videm creditori illa [illegible], que erat plus debito [illegible] [illegible] debitori ipsi; Et hoc se obtulit facturum dicens creditor in iud. ut apparet [illegible] [illegible] [illegible] ipso debitore. Et ad hanc oppo. et ad quanta [illegible] dicitur, quod hec in [illegible] ratio [illegible] [illegible] in [illegible] [illegible] [illegible] [illegible] clarissimos doctores, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contra. Ex superioribus itaque iuribus et rationibus, [illegible] ijs que [illegible] causa omittuntur sedentes pro tribunali et admonitionibus ac citatis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sufficiunt; ad [illegible] [illegible] [illegible] nomine [illegible] pro nostra definitiva sententia, quam [illegible] in his scriptis [illegible] [illegible] [illegible] et [illegible] [illegible] iudicium [illegible] [illegible] [illegible] [illegible] [illegible] sententiatum et a dicta sententia per dictos [illegible] [illegible] male [illegible] appellatum [illegible] sententiam quidem in omnibus, et per omnia approbamus et confirmamus et dictam [illegible] convictam condemnamus in expensis legitimis [illegible] [illegible] causa [illegible] [illegible] [illegible] nobis [illegible]. Laus deo.

[illegible] cum epi[illegible]

[illegible]

[illegible] est in [illegible]

[illegible]

[illegible] dicat [illegible]

[illegible] quod ibi [illegible]

Dicamus [illegible] equi [illegible] potuit retinere.
[illegible] inquantum [illegible] est [illegible] equum ipsum dedisset
et [illegible] cum nullum [illegible] causa relationis debuit cessare
alterquod [illegible] ipsum equum [illegible] non iam [illegible]
[illegible] et [illegible]. Doctrina Angeli in tractatu [illegible] in
[illegible] quidam [illegible] et ita [illegible] dicendi [illegible]
[illegible] Dicamus [illegible] ipse [illegible] est [illegible]
[illegible] non habuit [illegible] maximum [illegible] cum [illegible]
[illegible] amplius sit [illegible]
Ex his patet responsio ad doctrinam [illegible] in tractatu [illegible]
[illegible] in iii. col. ubi dicit quod [illegible] possum
[illegible] in domo mea [illegible] in [illegible] domini [illegible]
ut [illegible] tradit [illegible]
et glo. in [illegible] precant [illegible] equi. quia [illegible]
[illegible] equi [illegible] data et non [illegible] omnium
[illegible] non committit [illegible] abducendo
[illegible] non [illegible] ergo [illegible]
[illegible] contrectatio [illegible] non est [illegible]
contrectatio [illegible]
[illegible]
[illegible] contrectatio quia [illegible] dolum excludit
et [illegible] eodem [illegible] pot-
[illegible]
equum quia [illegible] crediderit [illegible] minori [illegible]
[illegible] abducere et quod [illegible]
[illegible] equus [illegible]

[illegible]

[illegible] hospit. Sebbastiano [illegible] [illegible]
[illegible] qua venisset puniendus [illegible] [illegible]
[illegible] ut ipsum puniendum [illegible] ut [illegible]
extraordinarie [illegible] officio iuxta [illegible] privatis [illegible]
[illegible] hospit. [illegible] condemnari ad damna [illegible]
et interesse [illegible] passi [illegible]
[illegible]
[illegible] Cochusim [illegible] Reg [illegible] [illegible] interveniret
interveniendo [illegible] apud [illegible]
[illegible]
[illegible] Sebastiani [illegible]
[illegible] condemnari [illegible] damna [illegible]
et interesse [illegible] circa [illegible]
[illegible] officium [illegible]
[illegible]

[illegible]

[illegible] ex [illegible] defuncto [illegible] fratres [illegible]

[illegible] fratres ex [illegible] defuncti [illegible] duo [illegible] defuncto [illegible]

[illegible] ex parte [illegible] defuncti [illegible]

[illegible] ex [illegible]

[illegible] fratribus ex utroque [illegible]

[illegible] facta [illegible]

[illegible] colligitur [illegible]

[illegible] regula [illegible]

[illegible] consanguinitatis [illegible]

[illegible] exclusione [illegible]

[illegible] ex [illegible] mulier [illegible]

[illegible] duos filios ex [illegible] uxore [illegible]

[illegible] magis [illegible]

[illegible] ex utroque latere [illegible]

[illegible] duo vincula magis [illegible]

[illegible] quod constitutio [illegible]

[illegible] falcidia [illegible]

[illegible] portione [illegible]

[illegible] dictorum fratrum [illegible]

[illegible] fratres soli ex [illegible] ex [illegible] fratres [illegible] ex utroque

[illegible] fratres ex utroque parente [illegible] ex

[illegible] coniunctos [illegible] parente [illegible]

[illegible] correctio [illegible]

[illegible] ex utroque parente [illegible]

[illegible] quia si extant fratres ex utroque parente [illegible] admittuntur [illegible]

[illegible] per [illegible]

[illegible]

quidam [illegible] fratres [illegible]

[illegible] dum [illegible] tali [illegible]

coniunctum [illegible] exclusi [illegible] in successione [illegible]

[illegible] ex utroque latere [illegible] excludit fratres ex uno tantum latere coniunctos [illegible]

[illegible] gardam et [illegible]

ut [illegible] Et [illegible] loqui [illegible] fratres primo

dicit [illegible] dictorum primorum ascendentium [illegible] primiorum [illegible]

[illegible] Modo [illegible]

coniunctus [illegible] coniunctus ex [illegible] ubi est multiplicata [illegible]

[illegible] fratres coniuncti ex uno latere tantum [illegible]

[illegible] primoris [illegible]

[illegible] ex uno latere [illegible]

Praedicta [illegible] masculinae [illegible] fratres [illegible] masculi ex utroque parente [illegible]

[illegible] utrique coniunctis [illegible] exstat [illegible]

[illegible] omissum [illegible] fratres [illegible]

[illegible] fratres ex uno latere tantum coniunctos [illegible] facta [illegible]

[illegible] in prin. ff. Sol. ma. [illegible]

[illegible]

persona non exclusa a statuto [illegible] persona exclusa [illegible]

[illegible] hic casus non [illegible] statuto [illegible]

[illegible] Alexan. [illegible]

Ex alio [illegible] casu [illegible]

[illegible] masculi ex [illegible]

coniuncti [illegible]

[illegible] obliga. [illegible]

non [illegible] ex [illegible]

[illegible] esse [illegible]

exclusos [illegible] ex [illegible]

[illegible]

[illegible] ex [illegible] utrique coniuncti [illegible]

[illegible] antiqua [illegible]

[illegible] ... dic [illegible] ... cogn[illegible] ... [illegible]
[illegible] ... [illegible]
[illegible] ... diff[illegible] ... [illegible]
[illegible]
[illegible] ... [illegible] ... hic [illegible]
[illegible] ... d. [illegible] ... [illegible]
[illegible] respondeo, quod satis [illegible] ... [illegible]
[illegible] ... [illegible] Sed ob. [illegible]
[illegible] succeditur ex [illegible] et expect[illegible]
[illegible] Card[illegible] et Gardinia, et ep multis alijs
[illegible] ... [illegible]
[illegible] ... [illegible] qui vos [illegible] ... [illegible]
[illegible] vos dilexi[illegible] similiter vos [illegible] dicere [illegible]
[illegible] ar. no. in. [illegible] C. [illegible] et ali. [illegible] et cum hoc fundata est [illegible]
[illegible] lucius. Sed [illegible] ... in successione ab intestato in sua utrinq.
[illegible] coniunctus [illegible]. Hec ob. quod eadem [illegible] in eodem [illegible] in [illegible]
[illegible] magis [illegible] computari frater ex [illegible] quia video quod hoc est
[illegible] in eodem [illegible] gradu. Sed utrinq. coniunctus est proximior, [illegible]
[illegible] ... [illegible]
[illegible] ... [illegible] ex [illegible] video quod
[illegible] ut no. in [illegible] ... [illegible]
[illegible] admitti, imo excluditur [illegible] et ita consulo.

[illegible] 1510 [illegible] Bononia [illegible] doc. [illegible]
[illegible] ordinarie legens, in cuius fidem me propria manu [illegible] ipsi et co-
[illegible] sigillavi. Salvo semper saniori consilio.

[illegible] et Rubeis [illegible] ... [illegible]
[illegible] hoc tamen consilium [illegible], et si [illegible]
[illegible] opinionem [illegible] quibusdam eius fundamentis [illegible].

[illegible]

[illegible] praedicto [illegible]

per quo omnis difficultas videtur cōsistere, et oibus diligēter cōsideratis

Et prima facie videtur [illegible] fratres utrinque coniuncti deberent succedere, excluso altero consanguineo tantum per tex. in aut itaque et in Corpore unde sumitur C. comuna de successionibus, fratri altero ex uno latere tantum coniuncto. Nec praedictae dispositioni iuris cōmunis videtur obstare statutum [illegible] cui [illegible] posse. Respondeo

ubi utrinque coniunctus fratrum in success.

Et primo [illegible] non est comprehensus, sed omissus ab ipso statuto, et sic remanet in dispositione Juris cōmunis l. si extraneus [illegible] de condict. ob causam l. [illegible] de lib. et Posthumis, et not. in l. si cum dotem solu. matri. Nam in ea parte, qua ipsum Statutum loquitur de successione fratrum, Disponit [illegible] masculis, et tunc [illegible] et item [illegible] fratre [illegible] in textu [illegible] extarent filij fratrum defunctorum, tunc ipsi [illegible] successionem Defuncti admittantur cum primis et ascendentibus praedictis. Disponit ergo et admittit fratres quando extarent ascendentes. Sed ubi non extarent ascendentes, [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] stante [illegible] caueatur [illegible]

succedit mater filio, si [illegible] mater [illegible]

rem defuncti, de qua non erat facta mentio in statuto [illegible]

non excluditur [illegible] mater et [illegible]

contra [illegible] Bal. [illegible]

in statuto, nec in specie de eo erat facta mentio [illegible]

fuisse de facto consultum per Collegium Perusinum [illegible]

facit [illegible] Bal. in l. cuiusque C. de [illegible]

statuto, [illegible] extante patruo non succedit [illegible] mater [illegible]

alicui defuncto superoit patruus [illegible] maternus, et [illegible]

[illegible] de qua non fuit facta mentio in statuto [illegible]

[illegible] patruo in l. [illegible]

[illegible] in l. si [illegible] C. ad Trebel. [illegible]

[illegible]

quid si superstites [illegible] patruus, mater et [illegible]

[illegible] dicto statuto et item Bal. in l. illam in [illegible] C. [illegible]

[illegible] mater non succedat [illegible]

[illegible] defuncti et [illegible]

[illegible] qui de iure [illegible] succederent [illegible]

non [illegible] statuta [illegible] et item [illegible]

[illegible] item Bal. in l. [illegible] contra [illegible]

[illegible]

[illegible] statutum [illegible] fratres utrinque [illegible] ex uno latere tantum [illegible] mate predicto [illegible] et fratres [illegible] coniuncti et fratres ex uno latere tantum [illegible] iste casus non est comprehensus ab ipso statuto.

Tertio ostenditur hoc, quoniam si consideramus rationem ipsius statuti, quae colligitur ex prohemio ipsius, [illegible] fide [illegible] instit. in l. [illegible] in fine iuris, quae ratio est, ut familiae conserventur, et [illegible] masculi remaneant in [illegible] agnatione, non [illegible] dicere, quod istud statutum emanaverit ad exclusionem feminarum et descendentium ex eis, non autem quod voluerit disponere quod fratres ex uno latere tantum et fratres utrinque coniuncti pariter admitterentur contra dispositionem iuris communis. Nam illa ratio non erat pertinens, nec necessitatis [illegible] Nam etiam [illegible] utrinque coniuncti [illegible] dispositionem [illegible] ratio [illegible] statuti. [illegible] debemus intelligere [illegible]

[illegible] Cum [illegible]

[illegible]

Quaerimo etiam ubi ex forma statuti praedicti ad exclusionem [illegible] admitterentur fratres utrinque coniuncti, et ex uno latere tantum, hoc debet intelligi secundum [illegible] et sit secundum dispositionem dictae auth. [illegible]

[illegible]

... pro ... mag ...

quia si extiterit ... coniuncto ... Sempronio ...

... non ... et ... opulatione ...

... intelligi ... femina admittantur ...

... masculus in l. gallus in § ... de libe et posthu ...

... Imo ... potuit in fine de Locati ... in l. ...

emphi. Item pari formiter dictum. Statutum ubi ... opulatione ...

terentur utrinque coniunctis, et ex uno latere tantum ...

foeminae, debebit intelligi ordine suo ... secundum ...

iuris ... non extantibus utrinque coniunctis ex uno latere ...

admittatur. Pro quo facit, quia ... [illegible] ... ut per ...

... ad statutum ut per ...

in l. ... Catone ... ut ...

... in l. ... per ...

... et Bal. in tit. de Pace ... in verbo ...

... in l. ... inst. et in l. ...

... Haec sunt, quae iudicio meo ... hac ...

Praemissis tamen non obstantibus ... contrariam partem ...

... et ... in haereditate ... Sempronij ... coniunctio ...

... fratres ex uno latere tantum cum utrinque ...

... supponit ... statuti ...

... masculus et feminae et ...

... in principio ...

[illegible]

tamen ex [illegible] uerbis et ex mente colligitur [illegible] ubi non exta- rent descendentes, quod ipse [illegible] [illegible], ut [illegible] in casu mixto [illegible] ad casum simplicem. Nota et [illegible] dispositum in simplici, uerificatur in casu mixto et in materia odiosa, quando ad eum uerisimiliter potest [illegible] [illegible] propter identitatem rationis [illegible] tus. [illegible] ibi [illegible] de Are. Bal. et Imo. in l. si [illegible] ff. [illegible] quando superest descendens ad [illegible] ab hereditate [illegible]. Que [illegible] militia in agnatione [illegible] militiis, quando [illegible] [illegible] et dispositum in casu mixto trahetur ad casum simplicem ut eadem ratio sit communior. l. [illegible] ff. [illegible] alios, in [illegible] in casibus in quibus [illegible] mixtum [illegible] [illegible] per Ang. in l. [illegible]

[illegible] mixto [illegible]

[illegible]

[illegible] puta [illegible] ubi illa [illegible]
[illegible] sine illa [illegible]
[illegible] not[illegible] in l. p[illegible]. de libe. et po[illegible]
[illegible] in simile dixit Bar. in l. denunciasse in §. quid tamen [illegible]
[illegible] per Bal. in l. et si severior de infamibus. Ergo sta[illegible]
[illegible] de fratribus cum qualitate, et mistura ascendentium [illegible]
[illegible] mistura ut dixi, non censetur de substantia ad ex[illegible]
[illegible], comprehendere fratres solos ad haereditatem fratris

Et quod ista fuit mens statuti, hoc demonstratur ex verbis [illegible] ibi, et si cum dictis fratribus ascendentibus ut de fra[illegible] [illegible] etc. ubi filii fratrum admittuntur cum ascendenti[illegible] cum fratribus defuncti, et [illegible] patruus suis alternati[illegible] per se, et non mixtim [illegible] hoc enim importa[illegible] tio, aut quae est alterna [illegible]

Hoc [illegible] demonstratur [illegible] non [illegible] ubi [illegible] admittendo [illegible] siderat. [illegible] et non copulative, [illegible] mixtim. Nam ex forma [illegible] sine mistura [illegible] consideranda ergo et [illegible]

[illegible]

[illegible] in l. [illegible] et [illegible]

[illegible] ascendentium exclusivo.

filii fratris admittuntur.

alia consideratio.

filii fratris admittuntur.

[illegible]

[illegible] ... in [illegible] ... per[illegible]

Hec et [illegible] ... [illegible] in [illegible] ... [illegible] filij frat. in [illegible] ... feminas, non a[illegible] [illegible] ... ergo [illegible] nepotes ex fra[illegible], quam patres [illegible] ... ipsorum statutorum, si dice[illegible] [illegible] ... ubique [illegible] ... [illegible] maxime [illegible], quia plus co[illegible] [illegible] nepotes, quam fratres, et [illegible] ... [illegible] ... [illegible] Bal. in l. [illegible] in [illegible] C. de [illegible] ... Bar. in l. ij. ff. [illegible] [illegible] ad Tertull. et in aut. l. liberorum. Quia statutum excludens [illegible] filium, excludit [illegible] nepotem ex ea, licet de ea non faciat mentionem, [illegible] ... [illegible] mater. Et [illegible] ... [illegible] interpretan. ut [illegible] ... [illegible] dum, et notat Bar. in l. omnis in VI. q. princi[illegible] de legib. et iur. in l. Scire oportet in §. et si maxi[illegible] ubi per Bal. de excusat. tutor. Ex quibus omnibus [illegible] puto manifeste demonstratur, quod ex verbis et ex mente ipsorum statutorum fratres admittantur [illegible] ... ubique mixtura ascendentium et [illegible] ...

Ubi [illegible] sic presupposito quod fr[illegible] ex uno latere tantum coni[illegible] [illegible] pariter admittatur cum fratribus utrinque coniunctis [illegible]

[illegible]

[illegible] ... minentur, [illegible] ... ut [illegible], illa [illegible] ... in uno latere [illegible] ... sicut [illegible] ... Ergo cum sit eadem ratio [illegible] ... distinguat pariformiter [illegible] ... cum sit [illegible] ... et [illegible] ... not. [illegible] ... [illegible]

Tertio et [illegible] ... in [illegible] ... ex uno [illegible] ... ex parte patris et [illegible] ... matris [illegible] ... et non in [illegible]

[illegible]

[illegible]

[illegible]

[illegible] in l. [illegible]

[illegible]

[illegible]

[illegible]

[illegible] per [illegible]

[illegible] in [illegible] ons [illegible]

[illegible] in l. [illegible] de legib. [illegible]

[illegible] de [illegible] post antiquos [illegible] in feudo

ita succederet [illegible] inquir[illegible] tantum sicut

frater unus [illegible] fratri [illegible] quia [illegible]

tere [illegible] est impertinens in successione feudi [illegible] dispo

sitio [illegible] non habebat locum secundum iura antiqua, se

cundum quae [illegible] non admittebantur nisi post [illegible] de

[illegible] in l. [illegible] nullo [illegible]

l. media [illegible] de legit. [illegible]

in prin. [illegible] verbo [illegible] ita [illegible]

[illegible] per tex. in d. l.

[illegible] de legit. [illegible] pariter succedebant. Cum ergo per ipsum

[illegible] in fratre [illegible]

[illegible] sit impertinens [illegible]

[illegible]

[illegible]

[illegible] per [illegible]

successio in prin. l. [illegible] primo [illegible]

[illegible] dispositionem [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] in [illegible]

[illegible] cum [illegible]

Et ad argumenta in contrarium [illegible] responsio [illegible] praedicta tamen specialiter respondendo. Non obstat [illegible] [illegible] praedicti [illegible] secundum [illegible] [illegible] cognatus et agnatus. Et [illegible] in eo casu [illegible] non erat impertinens. Unde nimirum si plus [illegible] [illegible] quam unum, sed ex forma dicti statuti cognatio [illegible] consideratione [illegible] masculis agnatis. Ergo dispositio [illegible] Sic [illegible] est derogatum [illegible] statuti sicut in [illegible]

[illegible] non est [illegible] demonstravi in [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] justitia nostra [illegible] ac [illegible] innocentia et Sinceritas.

[illegible] in circa [illegible] conditionis et [illegible] simplices [illegible]

[illegible]

[illegible] testar secundum [illegible]

[illegible]

[illegible]

L[illegible] patet [illegible] omnibus [illegible] in contrarium immo [illegible] tamen ad maiorē [illegible] dico breviter [illegible] nullo modo ob[illegible] quo [illegible] causa [illegible] [illegible] non est [illegible] interpretatione [illegible]

C[illegible] immo [illegible]

[illegible] D[illegible]

[illegible] Do[illegible] [illegible]

Cons.m factum per Ex.tem D. Ludouicum Merula doc: ... inter Gregorium Federici cordonem Ripani ... et Mattheum ... Blasij Sale ac fratrem de Sitijs ... rationes ... super ... non adherendo in causa ... litis

Contestationem :-

R.to x ihi Alla — [illegible] L 2.

A d Franc.o L 2 —

In Dei nomine et eius Matris Gloriose Amen. In Articulo mihi commisso inter magistrum Franciscum Cerdonem de Padua ex una, et Gregorium [illegible] de [illegible] ex altera. Videtur breviter dicendum quod magister Franciscus non obstante quod non iuraverit, valet vendicare bonum de quo in processu cum suis [illegible] [illegible] forma Constitutionis de Agnatis et vicinis. Possit in ore processus et sic tempore conclusionis iurare iuxta tenorem ipsius Constitutionis.

Et moveor primo per glo. in l. universa et per ibi dicta per Bal. de Cas: C. de [illegible] [illegible] offe: ubi habetur quod fideiussio per Decemptum vel statuta requisita prestari debet si a parte petatur. Et hoc etiam quod statutum procedat annullan. In casu autem nostro magister Gregorius non petiit magistro Franc: deferri iuramentum; ergo non obstante quod statutum nostrum procedat annullan. videtur dicendum; quod processus formatus valeat, et consequenter magistrum Franciscum posse adhuc iurare. imo plus, quia iuramentum non sit necessarium nisi petatur. Quod autem possit iurare, patet; quia statutum disponit, quod unusquisque tam Agnatus, quam vicinus aliquod venditum, vel in solutum datum vendicare volens iurare teneatur et cum clausula annullatoria, qui si huiusmodi Iuramentum non prestiterit et ad hunc finem, ut evitentur fraudes, et istius legis particule, ista fuit ratio. Et quandocumque pars se offert esse paratam iurare, imo plus pars dicit velle iurare, cessat ratio ipsius legis, sive statuti, et cum statutum Regulatur a ratione, ut per Alex. in Cons: 52. in 4. vol: et cum Ratio sit anima ipsius legis, l. [illegible] dictum ff. de [illegible] [illegible] [illegible] debemus dicere dictum magistrum Franc: satisfecisse contenta in statuto, vel saltem posse adhuc iurare, etiam quod a principio non iuraverit.

facere etiam videtur pro ista opinione doctrina Bartl: allegata in lege [illegible] §. sublata ff. ad [illegible]. ubi dicit Bartolus quod si statutum, sive Lex annullando actum dicat actionem non dari vel ad petendum non admittat, et similia, quod Actus qui est factus non servata forma dicti statuti non dicitur ipso iure nullus. sed venit Annullandus per sententiam, mediante Exceptione. In casu autem nostro statutum per hec verba formalia disponit. qui si huiusmodi Iuramentum non prestiterit, nullatenus ad vendicandum admittatur et

Stante ergo forma ipsius statuti per lege verbâ, Actus talis sine ...
non est ipso iure nullus sed venit per exceptionê annu...andus conse-
quenter iuramentum revalidabit ad convalidandum actum a pr... solemnitate
solemnitate factum et ut infra dirimenti declarabitur. ...
etiam alia allegata dicta in Allegationibus ...

Quibus tamê non obstantibus Contrarium de iure dico esse iudicandum pro
declaratione videndum est, an dispositio statuti nostri sit de forma ...
substantiali; et dico breviter, quod est de forma ...

Quia quando statutum continet in se, quod non est de iure Comuni, tunc statutum
dicitur tradere formam, ut si statutum disponat, quod infra biennium accusatio
vel matrimonii denuntiatio fieri debeat, quantumcunque accusatio fieri debeat ...
biennium non est de iure Comuni, ita ... in Cons. 36. Incipiente, visa ...
petitione, et in Cons. 242. incipiente ex tenore, ita in casu statuti nostri
quod vendicare volens teneatur ... non est de iure Comuni dispositio
ipsius statuti dicitur esse de forma ...

Et quod dispositio predicta sit de forma, probatur. ... lex disponit
verba de sui natura importantia necessitatem, vel per verba imperativa
de necessitate dispositio illa observari debet. ... alia ...
Doctores. est tex. in Clementina ... item ordo de verb. signif. ...
in casu nostro disponit per verbum teneatur. dispositio ergo servanda
et est ergo de forma ut infra clarius ostendam. Si ergo ...
Sic venditio non potest stare sine illa forma et quoties ... actus ...
stare non potest, forma illa dicitur esse substantialis ...
mus in ... de sponsa. in Cap. fin. ultimo notabili de Condi. apposi. ...
doctrinet in ... inviolata cap. de senten. ... omnium Iudicum ...
ergo ista data a statuto non servata reddit actum nullum, et ut ...
declarabitur Iuramentum non potest validare actum ... nullum.

Probatur etiam predicta per ... dictum Doc. quod quando statutum ...
annullat, illud quod disponit dicitur esse de forma ...
... et Bal. in l. ... ff. de lib. ... in Casu nostro ...

Margin notes (left):
quod de iure
Verba imperativa ... necessitatem ... imperativa
... stare ... forma
... annullat

procedit annullando, ubi si huiusmodi suptum: ex quo illa dispositio est de forma:
et quid sit [illegible] na et forma substantiali ut dixi monuit per Doc: Baldus in l. contra
[illegible], in tertia oppositione Cap.° de fide Instrumentorum per Doc: Dec. Cons.° X. n.° 2. Cons.
[illegible] 9 [illegible] 5. et 4 2 4 n.° 2. ubi dicunt quod forma data a statuto in dubio dicitur esse
substantialis et [illegible] Cons.: 50. circa mediu primae Columnae vol. 5. quod quaelibet
forma tradita censetur substantialis, et de essentia actus, adeo quod actus aliter
factus non valet, [illegible] ut ipsi dicunt procedunt, nisi constet quod dispositio sit
[illegible]
Eiusmodo sua dubitatio an [illegible] forma tradita in statuto nostro 13. quoverdicat
[illegible] teneat iurare et debeat a principio quam, vel sufficiat ~~[illegible]~~ velle iurare
formato processu, et sic tempore conclusionis in causa, et breviter dico, quod a prin-
cipio ista forma tradita a statuto est observanda. Et hoc p.° probatur ex [illegible] ratione.
Non est difficultas, quod dispositio statuti nostri sit de forma, ut supra fuit dictum, et
inferius [illegible] probabitur, forma debet esse tempore actus, quia cum forma sit
de essentia ipsius actus, non potest forma considerari, nisi quod est subiectum, in
quo subsistit 13. Considerari non potest forma, nisi sit actus qui geritur. In casu
autem nostro forma suptum debet esse tempore actus depositionis, sive petitionis, quia
cum depositio sive petitio sit subiectum ipsius formae, et illa forma non possit consi-
derari sine illo actu et sic de essentia ipsius actus, non potest illa forma, nec
ante actum nec post actum esse, sed debet adesse tempore actus quod si contrari
esset, forma sine actu consideraretur, quod esse non potest, et actus esset sine
sua essentia, quod non permittitur, ideo ne ista impossibilitas sequatur, necesse
est dicere, quod forma debeat esse tempore actus, et non ante neque post.
Et ultra alias rationes, dico quod ista potest [illegible] ratio, forma est essentia ipsius
actus, et cum sit essentia possumus dicere, quod sit tanquam agens informans actum
si actus est factus ante formam dicitur esse factus sine sua essentia et conse-
quenter male dispositum. Ideo forma tanquam agens nihil operaret in actu male
disposito, quia actus non operatur in patiente male disposito, ut [illegible] in 2.°
de [illegible] habetur in Cap. venerabile de elec. [illegible] ad hoc ut omnia [illegible], et recte
procedant, debent omnia simul incidere [illegible]. Et quod ista forma sit de
essentia probatur per rationem Bal. in l. p.ª ff. de lib. et post. h.: dicit enim Bal-
dus, quod quando statutum procedit ad nullandum, nisi talis formae sequatur, est signum
quod talis forma dat esse rei, ideo eius interventus ad validitatem actus est ne-
cessarius. In casu autem nostro statutum procedit annullando, nisi talis suptum
praestetur, ideo est signum quod illa forma dat esse rei et iuramentum dat essentiam actionis et petitionis.
Et quod actus petitionis seu litis contestationis sint nulli, ex quo formam suptum
non est [illegible], et consequenter quod suptum amplius in hoc iud.° deferri non potest probat
quia quando ex dispositione legis vel statuti aliquid [illegible] cum clausula annullatoria,
tunc illud dicitur traditum pro forma, adeo quod si actus est factus sine illa [illegible].

Dicitur esse nullus ex defectu eius, quod requiritur ad actum. Ita [illegible] de Cas. Alex. & Corter scribentes in l. §. 4. de lib. et posthu. Bal. in l. statutis per illum textum [illegible] [illegible] [illegible] [illegible]
Jaco. Romanus in Cons. 66. incipiente [illegible] [illegible] [illegible] [illegible]
quod electio fieri debeat [illegible] [illegible] [illegible] [illegible]
per triennium, non valet etiam in [illegible] [illegible] [illegible] [illegible]
[illegible] forma [illegible] [illegible] [illegible] [illegible]
sint [illegible], patet ex [illegible] statuendi [illegible] [illegible] premissa
quousque, tam [illegible] & vicinus aliquid venditum, vel [illegible]
[illegible] iurare teneatur [illegible] in clausula [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] mox [illegible] illa [illegible]
[illegible] requiritur in ipso actu ex [illegible] dixit [illegible] verba
[illegible] requiritur in ipso actu, forma non servata actus est ipso iure
[illegible] Bart. & Doctores in dic. l. universa C. de pre. [illegible] [illegible]
[illegible] in [illegible] ibi Doctores de [illegible]. Nec ista conventio [illegible]
[illegible] tempore conclusionis in causa posset deferri [illegible] ad hoc ut valeat [illegible]
quia actus precedentes facti sine illa [illegible] sunt nulli, cum sint facti [illegible]
[illegible]. Et [illegible] non potest ipsos confirmare [illegible] [illegible]
confirmet. [illegible] [illegible] [illegible] l. quid ergo in principio ff. de his qui not.
infamia. Cum [illegible] [illegible] non confirmet contractum nullum nisi [illegible]
[illegible] [illegible] [illegible] [illegible] Cap. si adulc. [illegible]
a statuto requisitum requiratur a principio, et non formato processu
sic. Verum est ut dixi, quod cum actus est factus sine forma [illegible] [illegible]
iure nullus. [illegible] [illegible] [illegible] [illegible] petitionis [illegible] litis contestationis
[illegible] [illegible] non sunt facti, [illegible] illa forma substantiali, necessario [illegible]
quod sint ipso iure nulli. Modo sic, quod actus est ipso iure nullus ex
neque obligatio, neque actio [illegible]. Si obligatio [illegible] non est nata [illegible]
[illegible] non competit, et quando actio ipso iure non competit non [illegible]
[illegible] aliqua exceptio. Imo [illegible] [illegible] parte etiam non opponente [illegible]
[illegible] Gl. in l. ubi pactum [illegible] Cod. de [illegible] [illegible] [illegible]
[illegible] [illegible] per actum nullum, [illegible] dicere [illegible] [illegible]
[illegible] a principio illa [illegible] [illegible] ne actus reddantur [illegible]
non servata etiam in minima parte processus redditur nullus [illegible]
[illegible] in Cap. [illegible] [illegible] de [illegible] [illegible]
Non obstat Glo. in dicta l. universa [illegible] [illegible] [illegible] [illegible]
illa forma non [illegible] de forma [illegible] sed [illegible] de solemnitate [illegible]
necessaria ad [illegible] actus etiam [illegible] solemnitas confirmat actum [illegible]
debitum. Et ad hunc [illegible] [illegible] [illegible] [illegible] confirmat [illegible]
debitum et hoc est de mente Bal. in dicta l. universa [illegible]

patet. rescissio, de qua in d. l. vniuersa non est de essentia [illegible]
quia [illegible] sine [illegible] eo, quod dicat, quod [illegible]
rescissione [illegible] rerum [illegible] rescissio est quaedam solemnitas, quae
confirmat actum in esse deductum, hoc est [illegible] iam concessum.
Solemnitas vero in casu n[ost]ro est substantialis quae est de essentia actus
quia vendicatio seu actio non est in esse deducta sine illa solemnitate. qui
vult ergo vendicare non potest nisi illa solemnitate adhibita. [illegible]
[illegible] imbeccile, bene potest sine [illegible] eo, quod in ipsa [illegible]
[illegible] rescissione. rescissio ergo est quaedam solemnitas, quae potest
interuenire post actum et consequenter non est de essentia ipsius actus, et
quando solemnitas potest interuenire post actum, actus factus sine illa
solemnitate non dicitur ipso iure nullus, sed est annullandus per viam
exceptionis adeo quod a principio tenet nisi de illa solemnitate [illegible]
etiam quod statutum in ipso casu procedat annullando, [illegible] le
mente Bart: et Bal: et Doc: in dicta l. vniuersa, et in istis terminis
procedit opinio Glo: et Paul: de Cas: quia cum actus a principio non sit ipso iure
nullus; sed sit annullandus per viam exceptionis tenet ergo et valet, nisi
[illegible] siue petatur [illegible] Sed in casu n[ost]ro actus est ipso iure
nullus. Ideo aliqua exceptio non requiritur neque quod petatur ita [illegible]
Quod ista forma tanquam substantialis rei existentis in potentia, et non ad con-
ualidandum actum, iam in esse deductum considerari debeat, probatur sic.
forma substantialis, et propria est illa quae aduenit rei existenti in
potentia per modum introductionis in esse, hoc est id quod erat in [illegible]
per illam formam efficitur esse, et actus qui est potentialiter deducibilis in
esse, non potest in esse deduci sine illa forma. Bal. in l. [illegible] ff. de usufru. [illegible]
sic in casu n[ost]ro actio quae competit vigore statuti ad vendicandum rem venditam,
deducitur in esse per formam positam in statuto, et sine illa forma
actio considerari non potest. et quod hoc sit verum, patet etiam ex uiuen[illegible]
verum ipsius Constitutionis. dicitur enim in statuto. quicumque [illegible]
[illegible] Quicumque aliquid venditum vel in solutum datum vendicare
volens, iurare teneatur quod ad nullius instantiam nec pro alia
persona, sed pro se petit, et intendit illud venditum, vel in solutum
datum vendicare, et hoc vendicat cum suis propriis pecuniis [illegible]
forma considerari non potest quod sit adhibenda actui iam facto [illegible]
possibile, quia ista verba ad hoc adaptari non, sed adaptari bene possunt
et debent actui existenti in potentia per modum introductionis in esse.
Et non obstet etiam Glo: et Doc: Paul: de Cas: in dicta l. vniuersa [illegible]
argumentando de maiori ad minus [illegible] partes non possunt renuntiare
saltem tacite formam traditam a statuto, multo minus non petendo debent

[illegible] uicinum [illegible] dicitur sibi preiudicare. Modo sic, quotiens [illegible] in [illegible]
[illegible] ponitur a lege, in d[ict]o casu [illegible] [illegible] [illegible], ut [illegible]
[illegible] [illegible], [illegible] [illegible] defectibile, tunc partes non possunt renunciare
[illegible] est [illegible] in Cap. [illegible] [illegible] contra [illegible]
[illegible] plus [illegible] quod ille in cuius fauorem [illegible] statuto non tenetur
[illegible] sine [illegible] exceptione [illegible] [illegible] [illegible] [illegible]
in Cap. statutis [illegible] [illegible] in [illegible] in [illegible] processus [illegible]
[illegible] in sexto. Nos autem sumus in statuto eodem modo [illegible]
idem [illegible] maxime in casu n[ost]ro non sit aliquod uerbum, per [illegible]
pareat [illegible] neque [illegible], neque expresse renunciatum [illegible]
[illegible] sine [illegible] quod partes [illegible] renunciare
[illegible] esse expresse [illegible] breuiter, [illegible] non [illegible], quod [illegible]
constitutio [illegible] tenetur iurare [illegible] sit [illegible] in fauorem [illegible]
stante clausula annullatoria non sit [illegible] introducta [illegible] facta, ne
fraudetur lex [illegible] in odium [illegible] [illegible] uolentium
[illegible] fraudem, [illegible] emere pro se, [illegible] pro [illegible] emere [illegible]
[illegible] est fauorabilis [illegible] quod [illegible] odiosa, tunc non [illegible]
[illegible] renunciatum, Glo. [illegible] Doc. in l. de his. ff. de transac. In casu
[illegible] non fuit aliquod uerbum, per quod indicat renunciare [illegible]
expresse. Si [illegible] renunciari non [illegible] [illegible] pars non tenet [illegible]
Possumus etiam [illegible], quod statutum in casu n[ost]ro fuerit introductum [illegible]
[illegible] simpliciter in fauorem ementium, quia ipsa clausula quod [illegible]
uicinus iurare teneatur [illegible] cum [illegible] clausula annullatoria, dicitur [illegible]
introducta, ne defraudetur lex [illegible] [illegible] superiores, qui [illegible]
confirmauerunt statuta, [illegible] Glo. in terminis in d[ict]o Cap. [illegible]
in [illegible] processus ubi dicit quod stante clausula annullatiua non est [illegible]
[illegible] quia [illegible] [illegible] [illegible] in [illegible] [illegible]
partium [illegible] etiam ne [illegible] [illegible] in [illegible]
[illegible] in [illegible] quod ex [illegible] [illegible] [illegible] rem [illegible]
[illegible] uenditam [illegible] primo [illegible] uendita [illegible]
[illegible] non simpliciter [illegible] sed [illegible] ille conditione [illegible]
[illegible] [illegible] non [illegible] sed [illegible] [illegible]
[illegible] facultate, [illegible] [illegible] [illegible] uendita [illegible]
[illegible] uenditam [illegible] [illegible]
[illegible] in [illegible] [illegible] quod nulla [illegible] neque naturali, neque
[illegible] dicitur [illegible] ut supra.
Non obstat illud quod dicitur, quod ex [illegible] [illegible] uidetur cessare [illegible]
[illegible] quia [illegible] [illegible] statuti. [illegible] [illegible]
iurare [illegible] clausula annullatoria [illegible] introducta.

ut fuit dictum illa forma est tanq[uam] potentia, quod magis attenditur forma
datis adeo q[uod] quando aliquid requiritur pro forma illa forma adhiberi debet
etiam quod causa induendi formam cesserit. Doc: et max. dicit in l. p.a ff. de ... post.
Minime etiam obstat Doc: Bar: Allegata per D. Advocatum in lege p.a §. sublata
ff. ad Trebellianum, pro cuius declaratione dico esse distinguendum aut lex
sive statutum disponens per hoc verbum non admittatur vel dat certam formam
... actum contentum in statuto, aut nullam dat formam. Si in statuto nulla
tradita est forma, tunc ... est per viam exceptionis, ut in
... §. sublata, et in isto casu procedit opinio Bartoli. Si vero est tradita
certa forma et illa non est servata etiam q[uod] statutum disponat per verbum
non admittatur: dico q[uod] actus factus non servata illa forma est ipso iure nullus
et ita dictum Bart: declarat Paul. de Cas: in dicto §. sublata per notata per
Doc: in l. p.a §. eum qui ff. de const. pecu: et in l. p.a §. si quis ita ff. de verb.
obli: querunt ibi Doc: an illud quod non valet ut agitur, valeat ut valere potest
et dicunt aut illud quod agitur non valet, quia peccat in forma, et tunc illud
quod non valet ut agitur, non valet ut valere potest, quia actus sine forma est
ipso iure nullus ... §. ... ff. de transac. cum similibus. In casu
n[ost]ro est tradita forma, ergo illa Doc: non obstat:
Quibus ergo omnibus ... constat, q[uod] dispositio statuti n[ost]ri dicitur
esse tradita pro forma substantiali, qua non servata, nulla obligatio, neque
Actio dicitur esse n... adeo q[uod] totus processus dicitur ipso iure esse nullus, et
consequenter si observaretur tempore conclusionis in causa, non validaret pro-
cessum usq[ue] modo factum. Ideo nec ... est dicendum q[uod] a principio ista
forma sit servanda et q[uod] iuramentum non sit deferendum tempore conclusionis
in causa:
... nostri ... dico, et consulo partes mag.ci ... dni
Loc: ... eius ... fore et esse in pronunciando et iudicando
et quod ita pronunciet et declaret, ac iudicet ... Franc.ni ... in
hoc iud.o ad iurandum minime admittendum fore et esse, Reservato ei
iure aliter agendi: Absolvendo tamen de equitate partes ab expensis ...
et ita ut supra dico et consulo ego Ludovicus Mesala iuris Doc: minimus.
In quor[um] fidem me propria manu subscripsi, et consueto sigillo sigillavi:
Laus Deo:
Die Sabbati 28 m[ensi]s Aprilis 1578. Indictione sexta. Sic Instantibus mag.co
... cerdone de ... cum sp. D: ... Susaro
Doc: Utin. eius Adv.to ex una, et mag.co Franc.o q[uondam] Blasij Galla etiam de ...
... cerdone Utini p[ro]p[ri]o suo, et fris. habito prius ... ab eis in libro ...
pro dimidia, sp. D: Lud.s ... Doc: Utin. exhibuit Cons.m subscriptum sigil.
suo per se factum inter ipsas partes ibi in Iud.o tenoris ut supra. et ...

Tactis solemniter Scripturis per sacra Dei Evangelia, iuste pronuntiasse [illegible] et secundum eius conscientiam consuluisse ut supra, [illegible] D. Iac. Villabruna de [illegible] vic. ac vices gerens [illegible] D. Ioannis [illegible] [illegible] soc. [illegible] sedens pro tribunali in solita [illegible] [illegible] iussit per me Iac. Charoldum not. causae [illegible] [illegible] qualecta, et [illegible] declaravit, pronuntiavit, [illegible] ut in [illegible] in omnibus et per omnia partibus [illegible] [illegible] [illegible] [illegible] D. [illegible] Ioanne [illegible] [illegible] Erasmi [illegible] [illegible] [illegible] [illegible] Ianio, ac [illegible] notarijs [illegible] testibus. [illegible]

Iacobus Moroldus q. Simeonis Moroldi [illegible] Modio [illegible] et not. [illegible] Consilium supremum [illegible] [illegible] Vuirtemorum [illegible] [illegible] praedictis negotijs [illegible] [illegible] fidei notarium [illegible] [illegible] [illegible] [illegible] roboravique signo et nomine meo [illegible] Die Iovis, 28, Aug. 1567, Indictione [illegible]

In [illegible] per Nob. Dnos Turrianos [illegible] Virginum [illegible] de Terris per ipsum locum Tenuis [illegible] Na[illegible] possit refferre questione Dnij Dno suo [illegible] dubium [illegible] ut notat [illegible] conditionis [illegible] Jo[illegible] de Virginio asserere se nihil recognoscere [illegible]

Et [illegible] nullum [illegible] competit in liceniando [illegible] Terris [illegible] prouocatione [illegible] Inferret se esse dictarum Terrarum Vtile Dnum [illegible]. Tamen ex quo Joes nullibi ex deductis In processu probauit se esse dictarum Terrarum Dnum, sed allegauit tantum longinquam possessione, quod sibi non sufficit, quia ex sola possesione non censetur effectiuus Dns Terrarum predictarum [illegible] accedit [illegible] colonis ut Tenet B[illegible] In d. l. [illegible] C. de agri. [illegible] Pau. de Cast. In [illegible] 30. Incipit In [illegible] agit [illegible] Et [illegible] integraliter tradit Bar. In l. siquis In suo. ff. de condit. Institu. [illegible] sola [illegible] non infert aut presumitur Dnium [illegible] agitur [illegible]

In casu nostro per ipsos Turrianos [illegible] acquisitione [illegible] accepisse consensum ipsorum non refragantibus nec reclamantibus ipsis de Virgi[illegible] ipsorum Turrianorum Rotulis, et Testibus deponentibus de [illegible] arguitur rei ueritate, quia qualis apparet solutio, talis presumitur [illegible] C. de [illegible] [illegible] Junar, [illegible] essent [illegible] C. [illegible] per XXX. annos [illegible] solueret [illegible] solutio tollit [illegible] l. [illegible] ff. de [illegible] Et [illegible] probetur possessores eiusdem [illegible] tenuerit [illegible] per annos 40. [illegible] plures non tamen probatur [illegible] eas teneret Jure libelli [illegible] [illegible] Tenet Bal. in d. [illegible] agit [illegible] allegare libellum presumptum [illegible] Dns habenti [illegible] quia [illegible] l. [illegible] ueritas [illegible]

direpti [illegible] habere non [illegible] comunes [illegible]

[illegible] et aliis brevitatis [illegible]

verba [illegible] Judicia dico, consulo [illegible] Mag.ci [illegible]

et declarando, [illegible] Judicet et declaret Comun[illegible]

[illegible] contradictione [illegible] cum [illegible] me [illegible]

[illegible]

[illegible]

Et ita [illegible] Ego [illegible]

[illegible] sei fide [illegible] et sigillum [illegible]

[illegible]

[illegible]

[illegible] Comun[illegible] [illegible] Nob. [illegible]

[illegible] consultoris [illegible]

[illegible]

[illegible] ex [illegible]

[illegible]

[illegible] data [illegible] comun[illegible]

consti[illegible] [illegible] officialis [illegible]

[illegible]

[illegible]

[illegible] et [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] non [illegible]

[illegible] Primo [illegible]

[illegible] patris [illegible]

[illegible]

[illegible]

[illegible] in [illegible] [illegible] [illegible] [illegible]

[illegible] plata uniformes [illegible] [illegible]

[illegible]

[illegible] Nos [illegible]

[illegible]

[illegible]

[illegible]

In matz Seruitutum

[illegible]

[illegible] [illegible] in [illegible] [illegible] et [illegible] in [illegible] [illegible] [illegible] in [illegible] causa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] inquiens. Cum maximi verbositatem [illegible] [illegible] [illegible] [illegible] Aristot. lib. iij. Rhet. quod, et Salamon [illegible] inquiens iiij Sapi. fascinatio nugacitatis obscurat bona [illegible] [illegible] v. in [illegible] [illegible] [illegible] [illegible] [illegible] xx. [illegible] urbs patens, et absque murorum ambitu, ita vir, qui non potest in loquendo continere spiritum suum, qua de causa [illegible] propheta psal. cxl. pone Domine custodiam ori meo, et ostium circumstantiae labiis meis [illegible] [illegible] quia simplicia sunt verba veritatis nihilque est brevitate delectabilius, ut inquit Io. Candi. comen[illegible] Aquit. lib. viij. pagella mihi xliij, et And. Barb. in cons. iiij col.a prin. in iij. vol. Et nimis altercando veritas amittitur inquit [illegible] Mimus relatus ab A. Gel. noc. Attic. lib. xvij. cap. xiiij. et a Macrob. Saturnal. lib. ij. pagel. mihi clxiij. Sed ne in id incidam, quod fugere tento; Puto D. Georgium Candidum iudicij susceptorem pro D. [illegible] eius [illegible] in [illegible] vocata a quodam D. Iacobo de Budrio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] in casu manifestissimum victoriam, et sic ab impetitis cum expensis absolvendum, ex infra [illegible] [illegible] quia praescriptione statutaria [illegible] [illegible], [illegible] qua in [illegible] [illegible] [illegible] [illegible] de praescriptione c. ij. [illegible] [illegible] per xx. annos a l. municipali requisitos, sed [illegible] xxviij. Impetitus terrenum possedit pacifice, et quiete, mediantibus [illegible] [illegible] [illegible], ut est legere ex instrumento Locationis facta in [illegible] [illegible] q. D. Ioannis de Esopio sui authoris, et ex die mota litis, et quod emphiteuta salva canonis [illegible] [illegible] [illegible] emphiteuticam [illegible] [illegible] in l. cogit. C. de praescript. xxx. vel xl. an., qua stante praescriptione [illegible] [illegible] [illegible] est elisa, et sublata [illegible] [illegible] [illegible] [illegible]

[illegible]

Causa cons. xxi [illegible]

[illegible] in l. [illegible] ff. [illegible]

[illegible] praescriptioni non posse [illegible]

per pactum maxime in [illegible] quod et Bar. [illegible]

ff. de usucap. Bal. in l. [illegible] in fi. ff. [illegible]

[illegible] alias auctores. [illegible]

[illegible] in l. tamen si ff. ad [illegible] et hanc [illegible]

[illegible] Bar. et Bal. in [illegible]

[illegible]

[illegible] in l. [illegible]

ff. [illegible] in l. [illegible]

[illegible] ignorare [illegible]

[illegible] temporis

[illegible] impedimentum agendi [illegible]

[illegible] tempus [illegible]

[illegible]

habent tempora continuata [illegible]

[illegible] ergo [illegible] omnis [illegible]

[illegible] in xiv. [illegible]

[illegible]

processum [illegible] praescriptionem [illegible]

[illegible]

[illegible] praescriptione [illegible]

[illegible] ... alio ipso
[illegible]
[illegible]

aduersa constat [illegible] cedentium 42. ex [illegible]
Ergo tempora [illegible] in [illegible],
quod autem probet in processu [illegible] eius esse aetatis, patet ex
eo, quod testes asseuerant iam annis xxx. (simile [illegible]
patrem eius ex hac uita migrasse, et ex eo, quod
tunc temporis s. mortis patris [illegible] fuisse annorum
annorum xij in cc.a [illegible] alio non potest aduersarius [illegible],
quia s. in solutione canonis non solum per biennium, s.t. triennium,
sed et multos annos cessauit eius author, a quo is causam
dicit habere, quo casu ex dispositione L. ij. C. de iur. emphyt.
[illegible] ponit. et loca ab omni iure suo cecidit [illegible]
qui stat per biennium, uel triennium quin soluat canonem
ipso iure cadit ab omni iure suo, ut [illegible] doc. [illegible]
[illegible] per eos [illegible] adeo quod res emphyteutica ad primum
[illegible] deuoluitur ipso iure [illegible]
[illegible] tamen proprietario [illegible] doc. &
corn. cons. clxxxvij. mihi col. ij. [illegible]
in primo uol. et idem corn. cons. xvi num 10. [illegible] ij. uol
et cons. clxv. nu. 26. in ij. uol. & in cons. cclxxxj. in ij. uol.
ubi dicit communem esse opinionem doc. quod possit dominus propria
authoritate expellere emphyteutam propter cessationem in solutione
canonis per biennium [illegible] doc. loca congerit, idem [illegible]
[illegible] authoritatibus [illegible] corn. in cons. cc[illegible] col.
mihi ij in p.o uol. [illegible] cv. nu. 16 [illegible]

[illegible] lij. xv. quinimo etiam [illegible]
viij. vol. i. qui congregant hoc. nam [illegible] tenentes, et eam [illegible]
[illegible] co'mn. Corradi. cos. [illegible] nu. xxv. et cos. [illegible]
et denique ne in infinitum procedam ad omnia [illegible]
is ista opinio dicit. verior, et communis. quod [illegible]
[illegible] necessaria [illegible] dicere, omnes [illegible]
esse domini voluntatem in [illegible] locis, quibus [illegible]
congesta per Hipp. de Mars. in rub. ff. ad L. corn. de sicar. [illegible]
[illegible] allegat Bal. Abba. et alios ita tenentes, in casu [illegible]
nostro, q. domini voluntas concurrat, nulla dubitatio est [illegible]
ex eo ostenditur, quod ad actum [illegible] adveniat [illegible]
patri [illegible] accedit augmentum, et q. [illegible] de [illegible] tradeam
si [illegible] [illegible] quod [illegible] legitime, et [illegible] sione [illegible]
[illegible] ut eleganter, et docte prosequit. Soci. cons. clxvij. [illegible]
[illegible] questionem in ij. vol. et idem [illegible] hoc casu [illegible]
verbis, sed et [illegible] declaratur [illegible] L. [illegible] quibus. ff. [illegible]
[illegible] ff. nem rat. [illegible] hac quoque ratione [illegible]
assertus [illegible] omni [illegible] ratione. [illegible]
[illegible] patris [illegible] in [illegible]
multos annos. vel [illegible] apparet, q. q. [illegible] Joannes [illegible]
[illegible] dominis [illegible] contracta [illegible]
[illegible] ut ex [illegible] Mag.[illegible] Jacobi. [illegible]
[illegible] Vicini [illegible]
[illegible]

[illegible]

a ratione, quia etiam instrumentum [illegible] Joannis [illegible] ita cantat, quo [illegible] medium [illegible] posit [illegible] et quod [illegible] bonis [illegible] ex ocatio, quam datio in emphiteusim [illegible] eo acquisitur [illegible] magis solvit cannon, seu affictus, ut constat instrumento [illegible] locationis in processu registrate. sed pro emphiteusi [illegible] modica [illegible] non magna ut dicunt Doc. in locis preacitatis, et Jas. in L. ij. et fi. C. de iur. emphiteu. et Jac. machei patroci. [illegible] mihi [illegible] dicit eam esse emphiteusim [illegible] pro modico cannone, et ad meliorandum Alex. [illegible] cons. [illegible] in [illegible] volumine [illegible] Dato, sine praeiud.

[illegible] quod Joannes eodem tempore cessionis [illegible] acquisit [illegible] actionem, cum [illegible] alienatio dicatur, nam alienatio [illegible] [illegible] ergo [illegible] operatur cessio in incorporalibus [illegible] in corporalibus, [illegible] in cons [illegible] in [illegible] L. [illegible] C. [illegible] notani [illegible] cessio actionis et venditio [illegible] L. [illegible] ff. de [illegible] Sic modo alienans [illegible] emphiteuticam domino [illegible] seu [illegible] omni [illegible] prout est tex. in L. fi. C. de iur. [illegible] Bar. [illegible] [illegible] similiter [illegible] [illegible]

[illegible]
[illegible]
cxlix [illegible]
[illegible]
[illegible]
clxx [illegible]
[illegible]
ere nomine, q emptor [illegible]
tempus cadat a iure suo [illegible]
[illegible] consil. cxxxiij. [illegible]
suoq. corn. cons. clxvi. nu. iiij. in i. uol. et [illegible] cons.
nu. iiij. uol. i. in cons. clxiiij. per totum [illegible]
[illegible] in ij uol. [illegible] cons. cccexv. [illegible]
cons. clxi. nu. i. et 2. ubi dicit, q emphiteuta [illegible]
[illegible] uendituros debet dno denuntiare, q uult uendere, et [illegible]
[illegible] habere, q si dnus nolit emere, tunc potest alienare
pro libito sue uoluntatis, si uero alienat nulla facta [illegible]
natione, ius [illegible] dno [illegible] sic in casu nro [illegible] domino
[illegible] iura sua [illegible] non [illegible]
[illegible] pro [illegible] cecidit ab omni iure suo [illegible]
[illegible] actionis
[illegible] obtineat locum [illegible]
ultra [illegible] dicta ponderandum est uerbum [illegible]
[illegible] uerba appositum dedit, cessit, tradidit [illegible]
significant translationem dominij [illegible]
[illegible] ff. de condic. ob causa [illegible]
[illegible] considerandum q non solet
apponi in contractu emphiteusis clausula [illegible]
[illegible] sed [illegible] clausula [illegible]
dendum, meliorandum [illegible]
[illegible]

[illegible]

[illegible] gravam. Cumens. in suo sing. lxxxvi. cōtra
Dat quem ulterius reprehendit, dignitas q emphiteuticas domino
[illegible] non pot emphiteutisme alteri concedere, nec qñ [illegible]
[illegible] constituere, ut si constituat cadit ab omni jure
suo et sic [illegible] etiam capiti [illegible] cessionarius [illegible]
a limine praesentis judicii [illegible] [illegible] facit
quia multa obstant contra [illegible]
nam clarum est [illegible] per [illegible]
[illegible] L. [illegible] qui potior in pign. habe.
Cuilibet notandum est, quod [illegible] non
non valet toto tit. in rub. et [illegible]
[illegible]
[illegible] cedens est [illegible], et
[illegible] cessionarius [illegible], et [illegible], ergo cessio est
nulla, potentior [illegible] debet intelligi [illegible]
[illegible] non [illegible] contra quem cedit. at [illegible] in
[illegible]
[illegible]
[illegible] venire [illegible] aut [illegible]
[illegible]
[illegible] Rom. [illegible] suo sing. lxxx [illegible]
[illegible]
nam certum est quod [illegible] cadit [illegible]
[illegible] Lu[illegible] in suo [illegible]
[illegible] lxxvi [illegible]

[illegible] non [illegible]

[illegible]

[illegible] quod [illegible]

[illegible] quod [illegible]

[illegible] cum haben[illegible] quem non [illegible]
esse non debet; Accidat [illegible] frater Joannes cedentibus [illegible]
[illegible] Joannes cedens cessaverint in solutione cannonis per
multos annos, et sic [illegible] ceciderunt [illegible]
[illegible] nullum [illegible] habebat, et si nullum [illegible]
[illegible] ius, nullum quoque cedens potuit. L. nemo plus
ff. de reg. iur. glo. [illegible] declarat in L. i. §. cum
[illegible] in glo. [illegible] de pigno. [illegible] cons. [illegible] col.
vi. in iiij. vol. nemo enim dat quod non habet. [illegible]
L. cum testamento. C. de [illegible] et [illegible] L. [illegible]
[illegible] Marsilius C. [illegible] et lega. c. nemo [illegible]
[illegible] in L. traditio. ff. de acqui. rer. do. c. [illegible]
[illegible] quod [illegible]
[illegible] quod non habet [illegible]
ad [illegible] in lib. V. Alcibiades [illegible] quod [illegible]
[illegible] quod [illegible]
habet [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

quam [illegible] non [illegible] id quidem [illegible]
[illegible]
[illegible] ff [illegible]
[illegible] ff [illegible]
[illegible]
[illegible]
[illegible] quod [illegible]
[illegible] non [illegible]
[illegible] non [illegible] faciat nam quo; quod con[illegible]
[illegible] non est [illegible] ut [illegible] Rom. [illegible]
[illegible] singular. et l. quod vero [illegible]
legi. et [illegible]
consilii dispositionem est quod emphiteuta [illegible]
[illegible] suo [illegible] ad possessionem post [illegible]
sionem, et post praescriptionem, ergo cedere non poterit
[illegible] aliquod [illegible]
[illegible] in [illegible] tract. [illegible] consanguini. [illegible]
in glo. [illegible] in verbo non [illegible] vigesimo sexto [illegible]
mihi. [illegible] tenet dominus non posse invito vasallo [illegible]
alteri ius clientelae, seu vassallagii, quod [illegible]
[illegible] et auctoritatibus [illegible] sed [illegible] vasallo
invito non potest dominus cedere ius, quod habet [illegible]
[illegible] potuit vasallus [illegible] emphiteuta domino [illegible]
[illegible] invito eo alterum [illegible]
[illegible] fortassis non gratus? et licet quaedam videatur differentia
inter feudum, quod gratis conceditur, et emphiteusim, quae non
gratis datur, in multis tamen sunt similes, et symbolizantur
ut puta [illegible] utraque [illegible]
emphiteuta, ut inquit Soci. [illegible] L. [illegible] xv. in iiij. vol. et si
dominus feudi non potest vasallo invito cedere iura sua
[illegible] habet maius [illegible]
[illegible] qui minus iuris habet [illegible]

et personam, alter non tm habet obnoxiam [illegible]
[illegible] And. [illegible] in [illegible] 8
non [illegible]
[illegible]
[illegible]
dictus est, [illegible] cedi non potest, sed [illegible] etiam in
nimiis progressi, multa [illegible]
[illegible] qualiditatibus [illegible] dicam [illegible]
[illegible]
aliena [illegible] iuaden, et [illegible]
[illegible] dicit [illegible] in [illegible]
[illegible] fraudulentia [illegible]
simulatam et fraudulentam, [illegible] tali [illegible]
[illegible] est precludenda, quo litigiosus animus
alieni quietis dissipator, [illegible], tandem [illegible]
et omnes quiete uiuere permittat, se aliena [illegible]
non [illegible], quod [illegible] et credit [illegible]
[illegible] Mag.ª vra [illegible] integritatem [illegible]
[illegible]

S.lmi

[illegible]
[illegible]
die xiii [illegible] M.D.LXI [illegible]
[illegible] D. Georgij [illegible]
[illegible]

... ter, inam, ...

Idem And. Tiraq...

non fo... vin

...

nimis provec...

[illegible] dico [illegible] vulgare [illegible]
[illegible] 23 [illegible]
[illegible]
ideo [illegible] loco [illegible] creditores debent [illegible]
[illegible] Sp. d. [illegible] Thomini [illegible]
creditores [illegible]
Et ad [illegible] propositiones [illegible]
Cor[illegible] patris [illegible] dictos
[illegible] d. Andree ad [illegible] ideo [illegible]
[illegible]
[illegible] Andrea [illegible]
[illegible] Primo [illegible]
[illegible] ad dicta [illegible]
[illegible] dicta [illegible]
[illegible]
[illegible] in [illegible]
[illegible]
[illegible] ad dicta legata [illegible] sententia [illegible]
[illegible] privilegium [illegible] dicta [illegible]
[illegible]
[illegible] et ad [illegible]
[illegible]
[illegible] dico [illegible]
[illegible]
[illegible]

[illegible]

[illegible] l. j. § [illegible] ... Ita [illegible]

[illegible] posunt [illegible] ut. d. l. j. § [illegible]

[illegible] ad ipm [illegible] fructus [illegible]

[illegible] fuit hypothe[illegible]

Sed [illegible] est [illegible] privileg[illegible]

[illegible] aliis Creditoribus habentibus hypothecam [illegible]

Et [illegible] ad Creditores [illegible] dni paulus [illegible]

[illegible] privilegium [illegible] matrimon[illegible]

[illegible] non est aliud dubium [illegible]

[illegible] subordinatus fuit [illegible]

[illegible] ad dnm paulum [illegible] dote [illegible]

habet hypothecam [illegible] dicto [illegible] matrimonio [illegible]

dominatur [illegible] Credi[illegible]

[illegible]

[illegible] hypothecam matrimon[illegible]

[illegible] habentium [illegible] fuit [illegible]

[illegible] ad [illegible]

[illegible]

[illegible] habent hypothecam [illegible]

[illegible] dni pauli [illegible] dicto [illegible]

[illegible] dote [illegible]

[illegible] ad [illegible] Cred[illegible] subordinatus [illegible]

'n wat sudordinou Credity.

Duo R.^mi D.^ni Cardinales [illegible] fuerunt procuratores Mag.^ri
Equitii D.^ni Jo[annis] Cardinalis [illegible] contra magistrum [illegible] de
Bar[illegible] mercatorem Romanae curiae [illegible] qui [illegible] ipsum
[illegible] nomine suo ac [illegible] suorum de [illegible] in possessio-
nem [illegible] aliis suis [illegible] ad [illegible]
et [illegible] Mag.^ri Equitii de Calvis xxx.^ta [illegible]
[illegible] in [illegible] registro
[illegible] quo [illegible] cum [illegible] de Calvis xviij et
uno [illegible] pro [illegible] anni [illegible] 1547.
et quoad [illegible] magistrum [illegible] non [illegible]
quam [illegible] quia [illegible] in [illegible]
sive [illegible] non [illegible] ubi est [illegible]
quod [illegible] plures [illegible]
et [illegible] quando non [illegible] nec in
[illegible] nostro [illegible] 2do non obstat quod [illegible] ex
parte ipsius magistri [illegible] quod [illegible] ex parte eiusdem Mag.^ri Equi-
tii [illegible] de persona eiusdem magistri [illegible] pro pignera-
tionis [illegible] illius [illegible] assertis pignerationibus
[illegible] non [illegible] sed id [illegible]
magistro [illegible] eiusdem Mag.^ro Equitio [illegible]
magistrum [illegible] obligatum in solidum et quod ex pignerationibus
ipsis non [illegible] fuisse [illegible] pignerationes
[illegible] anno 1544 et ex dispositione [illegible]
[illegible] aliqua consideratione cum
[illegible] aliquod beneficium [illegible] Mag.^ri Equitii non [illegible]
[illegible] illius [illegible] obstat [illegible] magistri [illegible]
non [illegible] Calvis [illegible]
[illegible] quam ex [illegible] anno
1543 et in [illegible] registro [illegible] magistri [illegible]
[illegible] cum aliis [illegible] et in solidum ex quo [illegible]
nomine eiusdem Mag.^ri Equitii [illegible]
[illegible] ipsa [illegible] magistro [illegible] [illegible]

cum conditionibus suis de quibus satis est constituendo [illegible]
[illegible] ad nos simul et in [illegible] superius fuit dictum [illegible]
[illegible] vero ad Calendas [illegible] et [illegible] Vin[centiu]s Salligimus [illegible]
1547 Dicit [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] possident [illegible] [illegible] [illegible]
[illegible] Calendarum [illegible] et [illegible] obligarentur [illegible]
[illegible] [illegible] [illegible] [illegible] et [illegible] Mag[istru]m [illegible]
debeat [illegible] [illegible] [illegible] de Bosinijs qui de [illegible]
[illegible] fuit, quia obligatio [illegible] [illegible] non [illegible]
et solutio ei fieri debet pro possessione [illegible] obligatur ad [illegible]
[illegible] dicitur insuper ei [illegible] non obstare quod in [illegible]
[illegible] pro [illegible] de Bosinijs fuerit [illegible] [illegible] [illegible]
et obligatur [illegible] de qua supra [illegible] quid ad propositum [illegible]
se [illegible] [illegible], Cum [illegible] magister [illegible] [illegible]
non [illegible] [illegible] et [illegible] potest [illegible] Mag[istru]m [illegible] [illegible]
[illegible] [illegible] [illegible] nisi ad possidentem [illegible] solutionem [illegible]
[illegible] transferri potuit solutio ipsa in alium [illegible] quam [illegible]
[illegible] obligationis [illegible] patrono [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] si aliqua solutio ipsius pensionis [illegible]
fieri ab aliquibus [illegible] [illegible] ab ipso magistro [illegible] [illegible] [illegible]
[illegible] illius patre ipsi magistro [illegible], [illegible] illius [illegible]
sunt ab eis [illegible] [illegible] [illegible] depositione [illegible] [illegible]
[illegible] testis deponentis his verbis v[idelicet]: Quando li [illegible] [illegible]
a [illegible] la soa [illegible], maistro Bort[olomeo] [illegible] [illegible] [illegible]
[illegible] la nostra parte [illegible] li patroni la [illegible] [illegible]
et noi dauemo la nostra p[ar]te a m[aistro] Bort[olomeo], et lui la dava [illegible]
come patroni, et super [illegible] respondit dictum [illegible] [illegible]
pensio persolvebatur [illegible] [illegible] ad [illegible] Vin[centiu]s [illegible]
[illegible] magister Bartholomeus [illegible] 2da testis dicit [illegible]
[illegible] [illegible] et [illegible] [illegible] de nostra parte [illegible] non [illegible]
[illegible] [illegible] [illegible] eidem magistro [illegible] [illegible] Augustin[illegible]
deponit mag[istru]m [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ergo [illegible] ad solutionem pensionis [illegible]
deponit mag[istru]m [illegible] [illegible] ad solutionem partis Salligini [illegible]
solvere [illegible] [illegible] testis [illegible] [illegible] [illegible] [illegible]
[illegible] magister [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] qui [illegible] [illegible] [illegible] solutioni obligatum non possidentem

nec sine q(uod) mag(iste)r Bartholomeus prior magistri [illegible] possidet [illegible]
[illegible] qui solvit [illegible], sine assensu [illegible] & [illegible] [illegible] [illegible]
[illegible] mag(istru)m [illegible] [illegible] & sine ad petita, et sic [illegible] [illegible]
[illegible] ponitur [illegible] [illegible] [illegible] [illegible] ut [illegible] parte [illegible]
magistri [illegible]

[illegible]

[illegible] ut in ea cum appone non admissa, visis Interrogatoriis [illegible]
[illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] et [illegible] [illegible] [illegible] visis legibus [illegible]
In materia contractuum illicitorum et feneraticiorum et visis [illegible]
prima [illegible] [illegible] [illegible]
[illegible] [illegible] domini Adam de colbertaldo Iudicis ordinarii [illegible]
[illegible] Vic. qua pronunciavit malo Iudicatum circa admissione libelli actoris [illegible]
Domini Vic. et visa alia sententia celeberimi Iur. consulti domini Jacobi flori, qua [illegible]
[illegible] sententiam, visis pluribus Instrumentis, receptis, [illegible], et dillationibus, publicatione proces-
sus, conclusione in causa [illegible] allegationibus utriusque partis, et visa ac diligentissime [illegible]
rata sententia in meritis appellata, et mihi alousio discalcio utr. iur. doc. patavino
[illegible] comorant [illegible] utriusque partis dellegata, Non possum Infitiari quin [illegible]
[illegible] non [illegible] [illegible] [illegible] [illegible] stante [illegible] allegata [illegible]
[illegible] [illegible] [illegible] alijs locis circumvicinis ut satis videtur [illegible]
[illegible] [illegible] [illegible] mathei, et In similibus maxima est aucto-
ritas [illegible] [illegible]

ff. de legis [illegible] [illegible] cum alias locis [illegible]
usurariorum tanta potentia attribuit consuetudini quod si aliqua [illegible] aliquis actus [illegible]
natura sapiente usuraria pravitate [illegible] [illegible] in loco, In quo reputabatur
licitus de consuetudine [illegible] hoc non dicer [illegible]

[illegible] mes [illegible]

[illegible] in l. ij. C. de resci. vendi. [illegible]

[illegible] glo. in l. dolus in v. precij. C. de rescindenda

Et licet aliqui testes non concordi dicant [illegible] parum valeant [illegible]

emptores tamen propter hoc non sequitur quod regnum terre non valeret [illegible]

[illegible] Secundo [illegible] pena terre [illegible] emptor [illegible]

[illegible] post [illegible] in traditione l. sicuti §. [illegible]

[illegible] plene per Pau. de Cast. in [illegible] 88 [illegible]

[illegible] quod emptor teneatur locari [illegible]

[illegible] tractare [illegible]

[illegible] multo magis [illegible]

[illegible] consuetudine [illegible] ad [illegible]

[illegible] Quarto [illegible] locatio [illegible]

[illegible] pro re vendita [illegible] 120 [illegible]

[illegible] parum [illegible]

[illegible] regnum [illegible] terre [illegible]

[illegible] et tales [illegible] circa locationis [illegible]

[illegible] dicit [illegible]

[illegible] vendere [illegible] 120. [illegible]

[illegible] 40. pro pena [illegible] testes [illegible]

[illegible] 20. [illegible] 24. [illegible] 30. ad plus [illegible]

[illegible] in aliis [illegible]

[illegible] tamen [illegible]

[illegible]

cautela : Octauo [illegible]
p[er]emptorio arguit co[illegible] co[n]uentionum [illegible]
ij. ([illegible] rejcim. Vendi[illegible] [illegible] uius ualo. [illegible] [illegible]
ueni. [illegible] In c. illo uos [illegible] pigno. : Nono accedit [illegible] pacto [illegible]
[illegible] itor [illegible] coductor no[n] possit [illegible] franchare [illegible] nisi [illegible] [illegible] [illegible]
tio [illegible] denotat auaritia [illegible] locatoris [illegible] [illegible] usuraria [illegible]
tione [illegible] no [illegible] [illegible]
[illegible] co[n]siderare [illegible] multo magis [illegible] accipi[illegible]:
[illegible] D[omi]ni [illegible] multu[m] [illegible] co[n]siderauit uelle
[illegible] parte [illegible] elige[illegible] mihi aut[em] [illegible] [illegible]plicuit ui-
dere [illegible] pacta [illegible] [illegible] sua illa a [illegible]
[illegible] que ibi [illegible] obseruat[ur] [illegible] no[n] e[st] laudabilis quia neq[ue] leges
[illegible] neq[ue] [illegible] contractus illicitos [illegible]
[illegible] obseruari in terris [illegible]
contractus [illegible] [illegible] materia [illegible] illa co[n]suetudo certe no[n] e[st] [illegible]
[illegible] ad [illegible] [illegible]
[illegible] annas [illegible] excedit [illegible]
[illegible] no[n] [illegible] iudex [illegible] ad minimu[m] [illegible] posit [illegible]
[illegible]
[illegible] co[n]suetudo illa [illegible] nihil ualer[illegible]
[illegible] in [illegible] ibi Bal. [illegible]
bonus [illegible] In c. [illegible] ubi dicit [illegible]

quae [illegible] [illegible] accepi[illegible] [illegible] [illegible] [illegible]

quantitate pro ipso aut contemptum nec sub contemptu afferre [illegible]

[illegible] dicti heredes [illegible] damnificati dico et declaro ipsum contractum [illegible]

ac [illegible] quatuor [illegible] denariis [illegible] duobus [illegible] [illegible]

ita quod quidquid solutum fuit pro denariis [illegible] alios eius nomine [illegible]

simul cum gallinis et collectis spectantibus directo domino [illegible]

eius debiti si [illegible] debitor, et si quid superesse computet [illegible]

magis aequitate quam iuris rigore, condemnans [illegible] ipsos heredes [illegible]

Laus Deo optimo.

at[illegible] [illegible] [illegible] similiter [illegible]

[illegible]egationes [illegible]

[illegible]

[illegible] prestito [illegible]

[illegible]

de quibus no apparent Instru[illegible]

[illegible] se [illegible]

[illegible] cognitum fuit [illegible] Et [illegible] aggravamen [illegible] petit [illegible]

[illegible] Actori dicti D. Alig[illegible] fuit eidem D. [illegible]

[illegible] et bonis dictique [illegible] Andreutii [illegible] Q. ponat [illegible]

[illegible] dictam [illegible]rationem [illegible]

positi [illegible] sup quo [illegible] dictus [illegible]

dictum [illegible] Bertran[illegible] ipa se impedimerit in vindemiad[illegible] eum.

[illegible] Dictus D [illegible] dicto [illegible] contestando item [illegible]

[illegible] Bertran[illegible] est in possessione [illegible] non [illegible]

[illegible] no [illegible] Offerens se [illegible]

Replicando [illegible]dictus [illegible] sunt [illegible] dicunt [illegible]

[illegible] ipe est in pos[illegible] affectus [illegible]

[illegible] partes ad fundam[illegible] Produxerint aliqua instru[illegible]

de quibus Infra sigillatim [illegible] hec est [illegible]

[illegible] dictus [illegible]

Et primo [illegible] declaratione [illegible]

[illegible] de qua in p[illegible] quidem [illegible]

[illegible] partes

[illegible] cum [illegible] de [illegible]

[illegible] bonor[illegible] Andrea [illegible]

[illegible] ad [illegible] exceptio [illegible]

[illegible] habere [illegible] acusto [illegible]

[illegible] ad tollenda [illegible]

dicti [illegible]

[illegible]

De monte [illegible]

[illegible]

[illegible]

[illegible] post motum [illegible]

[illegible] producit [illegible] ac sindes [illegible]

[illegible] datos [illegible] primi [illegible]

[illegible] principis [illegible]

[illegible] non probauit [illegible]

[illegible] adulterata [illegible]

[illegible] ut not. [illegible] in [illegible]

[illegible] pro [illegible] proba [illegible]

[illegible] ppea [illegible] vera [illegible]

[illegible] omnia [illegible] auctoris doctores [illegible]

not. [illegible] venissent [illegible]

[illegible]

Fran. [illegible]

C[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

[illegible] [illegible] q̄ [illegible]
[illegible]

S[illegible] [illegible]
[illegible] una [illegible]

[illegible] nō [illegible]
[illegible] Pre[illegible]
[illegible] [illegible] teri.

[illegible] hoc [illegible]
[illegible] [illegible] [illegible] victore
[illegible] [illegible] interpretari [illegible]
[illegible] [illegible]
[illegible] q̄ eadem [illegible]
[illegible] [illegible]

[illegible] [illegible]

In causa [illegible] primaria coram dno [illegible]

[illegible] quod dom [illegible] est nullus. primo quia sententia [illegible]
lata [illegible] contra solitum ordinem iudicii
[illegible] Et si dicat non requiritur
[illegible] fuit interlocutoria et appellatum [illegible]
[illegible] in [illegible] a gravamine non [illegible]
item ubi agitur solum de nullitate que evidenter colligitur ex actis
[illegible] p. c. [illegible] de off. iudi. [illegible]
[illegible] ista [illegible] de [illegible] nullitate
[illegible] adiudicatus dno [illegible] vigore laudi. Item de nul
litate laudi [illegible] p dnm [illegible] et declaratione facta
p dnm [illegible] Item quod pars adversa absoluta a fructibus et
[illegible] in quibus [illegible] et de sublatione [illegible] posite ea
in universitates quam singulares personas et in ista ca duos [illegible]
[illegible] non agitur de alio et in [illegible] toto processu quod non expectet
aliud nisi si [illegible] sententia diffinit ista omnia sicut revera diffi
nit seu diffinire [illegible] ut [illegible] clare apparet non est dubium
quod est diffinitiva ut in l. [illegible] de senten. et in l. i ff. de re
iudi. ij. q. vj. § diffinitiva [illegible] processum [illegible]
[illegible] non ob. si forte dicatur quod nullitas evidenter colligitur
ex actis quia [illegible] quod processus [illegible] p arbitratorem non
erat in actis nec tenebatur eum producere ex quo a sententia non
fuit appellatum l. si [illegible] § [illegible] et l. [illegible] ff. de [illegible]
[illegible] quo [illegible] non ex eisdem actis sed aliunde oporteret [illegible] depre
henderet nullitas [illegible] laudi et nullitas [illegible]
non [illegible] non est verum quod sine [illegible] observatione possit procedi
primo [illegible] procedi [illegible] in c. si
de off. iudi. ~~ut [illegible] supra allegata~~ Plus duo
quod si [illegible] super nullitate quo [illegible]
[illegible] p. c. fi. de off. iudi. et deinde
iudex procedit non solum super nullitate sed cassat quicquid de facto
processit vel absolvit et his similia ut fuit in casu nostro
quod cassavit [illegible] absolvit [illegible]
[illegible] quod istud officium non solum fuit re
[illegible] sed [illegible] de [illegible] sicut [illegible]
sequitur dnm de [illegible] decisione [illegible]
et in hoc credo nullum esse dubium apud peritos

[illegible]

[illegible]

Item dico qd' e nulla dca pnsa snia dni Sci marci qr lata pendente termino ad dicendum [illegible] p ptem adūsam met impetrato z recepto debuit enim eius officium cessare dilatione pendente l. [illegible] C. de [illegible] de app. [illegible] Nec ob. si forte dicerent ps aduersa qr ista fuit dilatio impetrata p eum met cui potuit renunciare saltem tacite p. l. si quis in conscribendo C. de pac. fateor sed no h' puidici altereius conliugant tam enim dilacio sta esse coīs p. l. pe. C. de tp. [illegible] rest. z unde lic una ps renunciet no desinit ppterea pendere dilatio quo ad aliam ptem que no renunciauit que considebat qd' dilatione coi pendente nil debere[z] mouere Nec ob si dicatur qd' hora late snie finiebat[z] dilatio qr no est verum primo tota illa dies cedit dilatiori ut insti. de uer. ob. §. In diem vt ac ner. hoc etiam tenz Spec. in ti.lo de dila. § videndum vi. In suma. z v. Illud z hoc sequi etiam Jo. an. in addit. ibidem z ista credo esse talia q' possint palpari z detegit[ur] rancore Judicis contra suauerit consilium Spec. in dco § vi. h[ec] aute tu Judex semp obserua ut ad ueniente die termini facias legi termini assignationem ut scias sup quo z ad quid pcedendum sit inlidos enim errores qo hoc contingere vidi dic Spec. ibidem non fecit sit d. Sci marci q' anhelauit ad finem no ad iusticiam

Item qr contra madatum sibi factum p papam in pncia omnium cardinalium eadem die uelo eleuato z ante horam consuetam tulit pdcam pnsam sniam tn in h[oc] ꝙ modo no insisto qr no e adhuc deductum

Item qr ad nulli[us] ptis instancia qui de madato ciuitatis Argen nullomodo constat z sit iudicium nullum l. n[f]. C. de pcur. ti. sp. Nullitas eciam pdci pnsi madati deprehendit[z] primo ex eo qr nomina constituencium no fuit descripta in ipo madato ut l. fi ff. de albo scriben. qd' no in l. nulli ff. qd' cuiusq[ue] uniu. no. z in l. qd' maior ff. ad municip. et Spec. z Jo. an. p[er]eum in ti. de sindico § primo vi. sit oppozz ide tenz ostiensis in suma in eodem ti. de sindico § z qualiter creari. z bar. in l. prima ff. de albo scriben.

Item qr no interuenerunt due ptes uniūsitatis in constitucione

Presens causa, que vertit inter d. franciscum [illegible] ex
una parte et andream de [illegible] ex altera
videtur esse satis clara ad favorem dicti d. franci
et ideo [illegible] rationem premissa [illegible] agere
non dubitans [illegible] iuri consentaneum [illegible]
arrendum erit, quia ut inquit d. phil. dec. in cons. xcix
col. pe. ex multiloquio venit deceptio nautica excitatur
difficultas igitur videtur consistere an partite extracte ex libro
rationum et producte per d. franciscum iuxta depositionem testi
um super aliquibus istarum partitarum faciant plenam vel
semiplenam probationem videtur decerni posse ad deferen
dum iuramentum in supplementum probationis et consequenter ad
absolutionem a petitis per dictum andream et dictum d. franciscum
per partitas ipsas iuxta depositionem testium, non solum semip
lenam sed plenam [illegible] probasse et deferendum [illegible]
tum in supplementum, et consequenter absolutionem, nam licet
liber rationum pro scribente non faciat plenam, neque semiplenam
probationem l. exemplo et l. rationes C. de prob. notat
Bar. et Dec. in l. [illegible] § nummularios ff. [illegible] et
in l. admonendi ff. de iureiur. idem Bar. in l. [illegible]
tis ff. de donat. nihilominus liber rationum pro [illegible]
facit qualem qualem presumptionem [illegible] qualitate [illegible]
rei et cause ut puta quia causa est modice quantitatis
et liber est confectus a viro probo. non enim verisimile
est quod bonus vir in veritate deberat [illegible] scribere [illegible]
pro modica quantitate ut notat Abb. in c. ii in 6. col.
de fide instrum. arg. c. ad audientiam de presc. et [illegible]
gata l. rationes que licet loquantur in libris [illegible]
rii tamen eadem ratio est [illegible] [illegible]

aliam veritatem per testes ... eandem probare
etiam concedit ut clare in versiculo videri potest. quia
quando in libro rationum ... ex inde erit ...
scriptura per instrumenta vel alios libros omnes alii
presumuntur veri, sicut e contra quando scriptura
in uno falsa, presumuntur in omnibus aliis falsa ut
in c. fraternitatis de test. Bar. et Doc. in l. si
C. de transac. ita etiam si in aliquibus reperiatur
presumi ... in omnibus vera, ut ... a ratio
... l. et si contra ff. de vulg. et pupil. l. ...
lex iii et maxime quia favorabilior est ...
veris quam in falsis ideo magis extendenda ...

+ ff. de lib. et post. ... quinimo in magnis quantitatibus etiam facit ut
... si alium veritatem essent comprobare ut ...
... in § actionum in materia ... in xiii
de acc. dicens vidisse de facto observari et ita ...
Paul. de Cast. quod et in cons. xxxviii incipiente
bene examinatum dubia de quibus ... liter ...
get. Nec obstare si dicitur, quod predicta intelligi ...
probaretur per instrumenta publica, quia respondetur
per intelligi quando probatur per testes. ... enim ...
... etiam testes .l. i. ff. de fide instru.
... § instrumentorum ... de verb. sig. cum ...
fuerit non solum semiplene sed plena semiplene ...
... est ad iuramentum in subsidium ... in ...
facta semiplena probatione deveniet ad iuramentum in ...
ut notat Bar. in preallegata l. admonendi in ...
et ibi communiter Doc. ex quibus ... in ...
... dicta ... semiplena ...
semiplena probatione partis R. D. V. fore ...

deferatur iuramentum in habendis, et [illegible] ad [illegible]
audiendum et declarandum dictum [illegible] fuisse et esse absolutum
a [illegible] per [illegible] cum expensis et [illegible] interdictis [illegible]
[illegible] et [illegible] libere et [illegible] animi [illegible]

In mac [illegible] ...uitdeus [illegible]

Hor sì [illegible] V. S. Ill.ma [illegible]
per la generosità del suo ingegno, se non ama [illegible] gratie
col regalare, io n'ho havuto anche [illegible]
a [illegible] [illegible] una [illegible] et [illegible]
[illegible] col [illegible]. [illegible] oltre l'[illegible] una
nobilissima [illegible] e [illegible] non contenta mi regala
d'altre [illegible] et [illegible] per il che io mi [illegible]:
do tanto confusa, che non so dove dar di capo. Non
[illegible] però in questo [illegible] [illegible] sentimenti [illegible]
gratia [illegible] non sarà, che in qualche forma io [illegible].
[illegible] scemar in qualche parte le mie obligationi in:
finite, perche queste mi resteranno sempre indele:
bili; bensì io vorrei, e ne supplico [illegible] d'[illegible]
[illegible] V. S. Ill.ma, che almeno si compiacesse, di [illegible]
donare la gratia et à me, et al Sig.r Giovanni mio mano:
dell'honore di qualche suo comando, perchè possiamo glo:
riarsi d'essersi impiegati à servirla, di che ne [illegible]
[illegible] l'uno e l'altro [illegible] amorosi, [illegible] con gli
[illegible] mi sottoscrivino con la [illegible] [illegible]

J[illegible] Subordinationis, et prelationis [illegible]

Jn Mat. Subordinationis et prelationis Crucit.

4

DEI

[illegible]

[illegible] appellationis [illegible]

[illegible] heredes [illegible]

[illegible] Sententia Subordinatoria [illegible]

[illegible] creditores [illegible]

Declaravit [illegible]

[illegible] creditori [illegible]

[illegible] subordinare ad locum [illegible] creditoribus: vel [illegible] in dicta [illegible] Sententia: [illegible] rationibus [illegible]

¶ Item Causa et occasione [illegible] appellationis [illegible] magistrum Symonem [illegible] nova [illegible] Sententia [illegible] Dominum [illegible] Symonis [illegible] Dominum [illegible] sua sibi facta [illegible] Symonis [illegible]

¶ Item Causa et occasione [illegible] Sententia subordinatoria [illegible]

[illegible] prioris cause [illegible] delegande [illegible]

[illegible]

[illegible] ac [illegible]

forma [illegible]

[illegible] rectior [illegible]

[illegible] appellat[ionem] formam ac [illegible]

[illegible] obedivdis: de

[illegible] et nova

mis ad hanc in[illegible] Sinam [illegible]

CHRISTI Filiq[ue] gloriosissime virginis matris Marie [illegible] repetiis [illegible] dicimus: et de[illegible] [illegible] ac subordinamus absolvimus et [illegible] ut [illegible]

[illegible] ad [illegible] gasparem et Melchiorem fres [illegible] erant: De [illegible] ipsi post[illegible] [illegible] appellat[ionem] imposita: [illegible] [illegible] bonor[um] satisfacere creditoribus: [illegible] et [illegible] ac dicte [illegible] Appellationem [illegible] [illegible] c. de re iudi[cata] [illegible] sal. et [illegible] ff. de pactis [illegible] pactum §. qui pronunciavit ff. [illegible] l. [illegible] c. de pact[is] [illegible] in presenti forma in [illegible] de [illegible] Appellationi a. [illegible] 23. ideo [illegible] de[illegible] Appellationi [illegible] ad eos [illegible] iudicis [illegible] [illegible] in [illegible] iudicia [illegible] ad eos [illegible] nes: [illegible] eorum debere [illegible]

Quam aut[em] ad [illegible] fram[illegible] [illegible] minorem [illegible] [illegible]

[illegible] pridiam [illegible]

[illegible]

[illegible] ab [illegible] [illegible]

[illegible]

[illegible] spurcamus ad [illegible]

[illegible] Camerae [illegible]

ordinalem [illegible] ad corde [illegible]

[illegible] ad sublimandum [illegible]

[illegible] sibi [illegible] diligenter [illegible]

[illegible]

Dilectionis [illegible]

cognoscendi [illegible]

[illegible] commissarius [illegible]

[illegible] venerabilis [illegible]

[illegible] ad [illegible] ad [illegible]

[illegible] et providimus [illegible]

[illegible] Cancellario [illegible]

[illegible] Dilectus [illegible]

[illegible]

condemnatus [illegible] Judicium [illegible]

quo se fuit datus ad subordinandum [illegible]

sibi commiss[illegible] Administrationem [illegible]

habere [illegible] universalem corrigendam [illegible]

[illegible] cognoverit [illegible] L

[illegible] illius non [illegible]

[illegible] in forma [illegible]

[illegible] habendi [illegible] iudice [illegible]

[illegible] anno

Termo siculi [illegible]

[illegible]

ordinarius [illegible] ... opponetur [illegible]

[illegible] opponetur ... [illegible]

[illegible] Bar. [illegible]

p[illegible] magistratus [illegible] conveniri.

[illegible] si [illegible]

judici [illegible] supplere [illegible]

[illegible] Bar. ff. [illegible]

[illegible]

ab [illegible] non relevat ab onere

[illegible] singularis [illegible]

appellat[illegible] appellatio[illegible] Bar. in l. [illegible] ff. [illegible]

[illegible]

Postremo [illegible] quam [illegible] videntur [illegible] [illegible] fuisse [illegible] [illegible] oppositionis facte [illegible] judicem [illegible] [illegible] non [illegible] non adiunctam (?) regiam [illegible] non [illegible] formam constitutionis sub [illegible] et hereditatibus [illegible] Scrip[illegible] in manu [illegible] Franciscus [illegible]

[illegible]

[illegible]

[illegible] Bon[illegible] [illegible]

[illegible]

[illegible]

[illegible] insolidum [illegible]

[illegible] in [illegible] respondemus [illegible]

[illegible] l. fi. in princip. [illegible] [illegible]

[illegible] [illegible] Papie : in hodie [illegible]

[illegible] in [illegible]

solemnitates, alias [illegible] posset fieri [illegible]

[illegible] [illegible] [illegible]

notarios [illegible] notabiliter [illegible] in prin [illegible]

in [illegible] que [illegible] Lani [illegible]

[illegible] col [illegible] Jason [illegible] col circa fi. c. [illegible]

[illegible] [illegible] [illegible]

[illegible] heredis [illegible]

[illegible]

[illegible] demus [illegible] non

[illegible] quo ad [illegible]

[illegible] Jason [illegible]

[illegible] in hac [illegible]

[illegible] notarius [illegible]

[illegible]

[illegible] tempus [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

3. 5 [illegible]

[illegible]

q̃ alia no [illegible] frans nec dolus [illegible]

[illegible] falsitas:

Item In quam obijciebant ipsum [illegible] franciscum no [illegible] scripsisse [illegible] [illegible] no gaudere aliq beneficio inuentarij [illegible] teneri insolidum creditoribus. certo [illegible] domini Iudicis: q[illegible] hoc no [illegible] [illegible] bene dictum [illegible] q̃ hodie heres [illegible] nullo premisso [illegible] condito [illegible] inuentario [illegible] hereditaria tenetur no solum creditoribus [illegible] legatarijs insolidum [illegible] vires hereditarias [illegible]. Si vero no [illegible] [illegible] [illegible] heredis [illegible] falci. Sed q̃ heres q[illegible] [illegible] [illegible] [illegible] [illegible] omissio ponere [illegible] [illegible] [illegible] [illegible] vires hereditarias [illegible] no [illegible] teneantur [illegible] ser [illegible] hic [illegible] [illegible] [illegible] esse [illegible] [illegible] opinio [illegible] casu valeat [illegible] [illegible] [illegible] [illegible] heres [illegible] beneficio dicti [illegible] [illegible] no teneantur In solidum [illegible] vires hereditarias [illegible] [illegible] [illegible] In compu[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] noti [illegible]
[illegible] alti
[illegible] hac
[illegible] incidit [illegible]
[illegible] ipsum [illegible]

[illegible] non apposuit [illegible] de
ipsius bo[illegible] eo [illegible]
cons[illegible] a [illegible] possi[illegible]
contra [illegible] ignoro [illegible]
producis in secundo p esse [illegible] C.

Ipropterea de quo [illegible] conficiunt inventarium de
bonis que habet [illegible] pro parte sua Et licet
tot bona esse in hereditate quo ad ipsum,
et non plura ipsi habere fundatam intentionem:
certe si fidei vel creditores [illegible] dic[illegible]
plura bona esse in hereditate, provenire
ipsi [illegible] dicunt [illegible] transeunt. Bal.
Angel. Saly. [illegible] in dicta l. fi. §.
licentia C. de iure deliber. [illegible] et Imol.
in [illegible] causa ff. de re iudi. Paul. de Castro
in l. [illegible] ff. so[illegible] matri. [illegible] Ro. [illegible]
·276. incip. [illegible] dubiis [illegible] [illegible]
[illegible] [illegible] ad fi [illegible]
[illegible] considerans [illegible]
in [illegible] in fi co.

Secundo [illegible] qua cetera [illegible] dispensa in dicta consi
[illegible] et [illegible] inventariis [illegible]
[illegible] sibi [illegible]
·25. [illegible] curatore [illegible]
[illegible] [illegible] [illegible]

[illegible]

nde ex predictis [illegible] [illegible]

[illegible] causa [illegible] : dico [illegible] [illegible]

[illegible] ac [illegible] ipsum [illegible]

[illegible] iusse [illegible]

[illegible] [illegible] [illegible]

[illegible]

[illegible] de bello [illegible]

[illegible]

[illegible] in qua

de [illegible] ipsum [illegible] pater-

nus [illegible] beneficio inventarii [illegible]

declaravit ipsum in concursu creditorum non esse

[illegible] debere : [illegible] eius creditor [illegible]

Et [illegible] melius [illegible] ipsum reformando

[illegible] dicti [illegible] Francisci in [illegible]

[illegible] prohibenti [illegible]

sibi [illegible] inventarium

[illegible] confundatur [illegible] glo. [illegible]

l. [illegible] §. in computatione C. de iure deliber. [illegible]

n. [illegible] hereditatem [illegible] : et [illegible]

heredem in eo statu et gradu [illegible] aditam

hereditatem ut [illegible] doctores [illegible] Bal. in

l. debitori [illegible] prohibe-

tur heres [illegible] creditoribus he-

reditariis [illegible]

declaravit creditore [illegible]

factis in medicinis in infirmitate [illegible]

[illegible] et funeralibus [illegible]

in [illegible] defuncti [illegible] hereditate

[illegible] glo. [illegible] §. in compu-

[illegible] expensis [illegible] religiosis [illegible]

[illegible] sicut impensa funeris est privilegiata [illegible]

[illegible] hereditate [illegible]

[illegible] vitare debitum [illegible]

[illegible] per heredem [illegible] no

[illegible] regno [illegible]

[illegible] impensa excedat aes alienum

qr frumentum: et eius rata occor plurium, eo [illegible]

[illegible] creditoribus [illegible]

[illegible] secundo ponimus et colocamus in [illegible]

[illegible] creditores dicti [illegible] Ordinentes eo[illegible]

prius ut supra [illegible] qr heres [illegible]

expensas necessarias ut est glo. reputata singularis

in [illegible] si [illegible] in augmentum [illegible]

[illegible] liber[illegible] graph.

dicitis a est [illegible] singularis: [illegible] concinui

glo. maxime procedit qr tales expense sunt [illegible]

nabiles: [illegible] verisimiliter eos fecisse

[illegible] eodem primo loco an creditum dicti

[illegible] Ordinenses ponimus et colocamus [illegible]

solum [illegible] quocumque sive here

ditariis creditoribus [illegible]

[illegible] eos expositis et solutis [illegible] secundo

[illegible] Cause [illegible] talis

[illegible] impensa sicut [illegible] privilegiata [illegible]

[illegible] ipsa hereditate ut [illegible]

[illegible] in [illegible] l. [illegible] §. in

[illegible] liber:

successive [illegible] heredes

[illegible] vigore [illegible]

[illegible] declarari [illegible]

[illegible] creditoribus [illegible]

vigore [illegible] creditoribus

[illegible] vigore do

tis [illegible] dotalis

[illegible]

[illegible] aut[illegible]
[illegible] gstitu[illegible] 900 [illegible]
et [illegible] 100 [illegible]
[illegible] solutionem [illegible]
[illegible] die octave [illegible]
ionis et nuptias : ducat[illegible] singulorum valoris [illegible]
[illegible] commissorum [illegible]
[illegible] tribus [illegible]
[illegible] 1575 [illegible] anno [illegible] 1513.
[illegible] anno [illegible] 1517 [illegible] gstitu-
[illegible] admisisse et recepisse ad [illegible]
doris et [illegible] solum ducatos [illegible] item
[illegible] 300 [illegible] mater [illegible]
[illegible] fideiussionis [illegible] recep[illegible] declara-
mus Creditorem [illegible] quanto spectat ad hereditariam
portionem in bonis matris [illegible] ad [illegible]
et donationem propter nuptias [illegible] declaramus
creditorem pro quantitate doris prestite et non plus
[illegible] in [illegible] non eligere secun-
do [illegible] Sed que [illegible] partis con-
[illegible] item [illegible] ducatis 25 [illegible] singulos [illegible]
lis [illegible] similiter [illegible] eius [illegible] ipsum faci-
mus Creditorem in bonis [illegible] hereditarie paterne:
[illegible] quibus [illegible] singulis [illegible]
[illegible] in concursu [illegible] ponere [illegible]
re [illegible] constitutionis. [illegible] Creditori-
bus [illegible] habentibus expressas [illegible] anteriores
contra dispositionem [illegible] assiduis [illegible] potior [illegible]
[illegible] habeat[illegible]. Et [illegible] constitutio-
ne [illegible] nec [illegible] expressa-
[illegible] anteriori [illegible] si contrahentes volu-
issent hoc [illegible] novo [illegible] illud [illegible]

[illegible] ca. no. [illegible] [illegible] [illegible] ...

D. [illegible] iuris Communis . ut [illegible] [illegible]

[illegible] . [illegible] causa . vide [illegible] in [illegible] parte cor

[illegible] [illegible] ca [illegible] no [illegible]

[illegible] [illegible] omnes illud Sabaudie

[illegible] [illegible] Sabaudiens [illegible] no

[illegible] [illegible] ut [illegible] glo. [illegible] [illegible]

[illegible] si [illegible] [illegible] [illegible]

[illegible] fieri [illegible] [illegible] correctio [illegible]

[illegible] C. [illegible] [illegible] [illegible] b. [illegible]

[illegible] Domina [illegible] [illegible] [illegible] dicere

q ista Constitutio, ea sic intelligenda, esset superflua

cum [illegible] illud esse dispositum [illegible] dicere.

assiduis : [illegible] licet cum semper [illegible] [illegible]

intelligi [illegible] addat [illegible] [illegible] [illegible]

superflua [illegible] [illegible] [illegible] [illegible] [illegible]

. 4. [illegible] [illegible] ff. [illegible] [illegible] [illegible] Respondeo q

[illegible] non est superflua [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] ut [illegible] glo. [illegible] [illegible] l.

assiduis . 2. dico q [illegible] alio non est superflua cum

[illegible] [illegible] [illegible] glo. [illegible]

[illegible] [illegible] [illegible] [illegible] non solum [illegible] glo. [illegible]

[illegible] [illegible] [illegible] 3. [illegible] glo. [illegible] si [illegible] ff [illegible]

. 3. Et dato q [illegible] [illegible] [illegible] [illegible] deberemus

dicere, q esset superflua [illegible] nihil adderet [illegible] Cor:

[illegible] [illegible] Sabaudiens [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] glo. [illegible] Singularis [illegible] l. [illegible] 3. [illegible]

[illegible] [illegible] glo. [illegible] [illegible] [illegible] [illegible] C. [illegible]

[illegible] deliberatione [illegible] [illegible] in [illegible] col. [illegible]

[illegible] [illegible] in [illegible] Sacrosancta [illegible] [illegible]

[illegible] si [illegible] [illegible] in l. [illegible] [illegible] eius.

Tertio in predictis eundem [illegible]
loco [illegible] ponimus et collo[camus]
loco: ante [illegible] creditores [illegible] [illegible] dei
[illegible] [illegible]
de et hoc super omnibus bonis dicti heredis [illegible]

Quo vero ad reliquam partem [illegible]
quo [illegible] hereditarie [illegible]
[illegible] non probate [illegible] absolvimus [illegible]
[illegible] in edicto.

Ceterum [illegible] [illegible] quo ad personam magistri Symonis de Terra nova [illegible] a predicta sententia [illegible] iudex delegatus declarando [illegible] florenorum [illegible] quinque [illegible] creditoris [illegible] appellatis [illegible] [illegible] dicta domina flos dicta [illegible] sua [illegible] obligasset [illegible] creditores dicti magistri Symonis. In hoc declarando et pronunciando dico bene fuisse et esse iudicatum, confirmando ac [illegible] [illegible] magistrum Symonem [illegible] [illegible] [illegible]

In reliquis autem dico et pronunciando declaro bene in omnibus fuisse et esse iudicatum et pronunciatum.

Et ita [illegible] supra dicimus [illegible] condemnamus [illegible] et subordinamus in omnibus [illegible]
Et hoc [illegible] meliori modo [illegible] [illegible]

[illegible] loco Consequenter [illegible] ad particularem et [illegible] subordinationem prioris [illegible] [illegible] [illegible] omnibus supra quo ad concursum et ordinem primo loco ponimus et ceteris sequentibus creditoribus hoc in loco collocamus [illegible] [illegible]

[illegible] nota [illegible] Secunda
[illegible] appellamus [illegible]
[illegible] fraternitas [illegible] in instrumentis mo
[illegible] gloriose [illegible]
[illegible] collocavimus [illegible]
[illegible] cuius [illegible] in anno [illegible] pro
[illegible] domus [illegible] trahatur [illegible]
[illegible]
[illegible] donacion[illegible]
[illegible]

.2. Secundo loco ponimus [illegible]
[illegible] presbiterum [illegible]
[illegible] fratr[illegible]
[illegible] Bastia [illegible] hoc cum [illegible]
[illegible] annuos [illegible]
[illegible]

.3. Tertio loco collocavimus ecclesiam [illegible] Cathedra[illegible]
[illegible] in domo [illegible] bonis [illegible]
[illegible] capitul[illegible] soluerit [illegible]

.4. Quarto loco [illegible] collocavimus [illegible]
[illegible] oblationes [illegible]
[illegible] subordinand[illegible]
[illegible] domina [illegible] liberis [illegible]
[illegible] Jaco
[illegible] Franciscii [illegible]

.5. Quinto loco subsequenter ponimus [illegible] Jacobus [illegible]
[illegible] Bernardinum [illegible]
[illegible] soluerit [illegible]
[illegible] qua in [illegible] hoc [illegible] testimoni[illegible]
[illegible]

.6. Item Sanus [illegible] ponimus [illegible] collocavimus [illegible]
[illegible] fratr[illegible] in anno [illegible]
hoc [illegible] bonis [illegible] capitul[illegible]

a [illegible] [illegible] in [illegible]

7. [illegible] [illegible] Septimo loco [illegible] [illegible] [illegible] primi
[illegible] et [illegible] [illegible] [illegible] [illegible] [illegible]
8 [illegible] capituli [illegible] [illegible] [illegible]
[illegible] bona [illegible] [illegible] [illegible]

8. quos octavo loco [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] 4. in [illegible] [illegible] hactenus [illegible]
[illegible]

9. Nono etiam loco [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] Joannis [illegible] et [illegible] [illegible] 2 . 5
[illegible] [illegible] [illegible] [illegible] [illegible]

X Decimo [illegible] [illegible] in [illegible] [illegible] [illegible]
[illegible] [illegible] et [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] christophori
et [illegible] [illegible] [illegible] [illegible] . 5 .

Lata data [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] Juris [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] . 9 .
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] presentibus [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] Juris [illegible] [illegible] [illegible]
[illegible] Ludovico [illegible] ac [illegible] [illegible]
[illegible] [illegible] Hieronimo [illegible] notariis
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

[illegible]

Tenor particulae sententiae subordinatoriae [illegible] pro dominis Vincentio [illegible] [illegible] Mag.[illegible] [illegible] [illegible] Petra [illegible] adsubordinand [illegible] [illegible] Corbelli et Corbellis [illegible]

*

[illegible] parte [illegible] Pastrauone de Sauornano et nepot [illegible] creditoris [illegible] [illegible] [illegible] [illegible] uero calculo [illegible] [illegible] [illegible] [illegible] Mariae et Bernardini [illegible] [illegible] Corbelli [illegible] [illegible] intentione constat [illegible] [illegible] dotem celebrat [illegible] Anno 1486 [illegible] [illegible] [illegible] nos apud act. [illegible] [illegible] [illegible] [illegible] [illegible] quibus standum est, [illegible] [illegible] [illegible] [illegible] probata [illegible] adducta in [illegible] [illegible] capitul: [illegible] insistendo an debeat fieri compensatio [illegible] facta per dictum q. [illegible] Corbellum [illegible] q. domini [illegible] prout per ipsas heredes fuit oppositum [illegible] [illegible] inferius ubi declarabimus [illegible] [illegible] [illegible] [illegible] [illegible] camus pro praedicta [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] postponimus [illegible] hypothecam posterioritate [illegible] supradictam [illegible] potior; et [illegible] Creditor [illegible] et [illegible] Creditores causa [illegible] non obstante Patriae Constitutione [illegible] [illegible] quibus Creditoribus mulieres ratione [illegible] [illegible] [illegible] [illegible] habet obstare ex pluribus; Et primo quia dicta Constitutio habet varios intellectus et diversos, quidam [illegible] intelligunt, [illegible] [illegible] [illegible] Mulieres debeant praeferri non solum Creditoribus [illegible] [illegible] hypothecas anteriores [illegible] etiam [illegible] [illegible] [illegible] quidam [illegible] [illegible] [illegible] mulieribus, intelligunt [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] rationi et aequitati [illegible] [illegible] [illegible] [illegible] studiorum [illegible] [illegible] fuisse iudicatum, quo fit, ut [illegible] ambigua, ut [illegible] [illegible] in [illegible] [illegible] in [illegible] col. [illegible] [illegible] de [illegible] [illegible] adducta ibidem [illegible] [illegible] ideo in dicta Constitutione [illegible] [illegible] [illegible] tamquam dubia [illegible] habent varios intellectus [illegible] [illegible] [illegible] in L. in ambiguo ff. de reb. dub. [illegible] [illegible] dicimus, [illegible] esset providere; [illegible] [illegible] sub [illegible] [illegible] [illegible] dubia [illegible] [illegible] [illegible] dispositione iuris communis, de qua [illegible] [illegible] in L. Assiduis C. q. potio. in pigno hab. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] praeferendo hypothecis anterioribus [illegible] [illegible] [illegible] prout ibidem habet, [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible]

in rep. C. canonu statuta etc; di [illegible] certa qualitas

meliò statuit, tuc [illegible] quod iuris comuni

non marceseat; na statuta recipiut passiva interpretatione [illegible] omnino

dicitur etiam alibi, quando casus expressus no est in statutum de-

cibus, relinqui dispositioni iuris comunis [illegible] comodissime ff. de lib.

et posth. et in l. sicut dote in pr. ff. solu. matri. quae adeo sit vera

ut ibidem dicit idem Bar. et si in statuto diceretur, quod statutum

no posset gloxari vel interpretari, quod nunquam interpretatio iuris comunis

videtur prohibita, sed tantum interpretatio et glosatio hominis et abb.

l. quamvis. C. [illegible] Idem etiam ponit Bal. in l. omnes populi

ad fi. ff. de iust. et iu. Cum igitur ut diximus constitutionibus

sit dubia, est recurrendum ad ius comune, [illegible] ut

dictus fuit. dicti Pantaleon et nepotis sui veniunt pro omni

suo dicto residuo dotium prefato comunitati habenti hypothecam

anteriorem, immo debet in hoc loco collocari [illegible] crediti [illegible]

Itame que dicta constitutio (prout nobis videtur) non e adeo dubia,

quod possit in suo casu allegari, propterea respondemus [illegible] dicimus

quod no habet obstare, quandoquidem si verba ipsius recte ponderentur,

aperte videntur innuere, quod loquatur tantum in tacita no autem in

expressa hypotheca, quod facere tenemur, statuta enim

no debent supersticiose et ad corticum et ritu iudeorum intelligi, quod

dicit gl. in l. no dubium. C. de leg. a verborum superficie [illegible]

recedat; sed debent diligenter et medullitus ponderari, ut

dicit Bal. in l. quicunque in V. col. Ver. quinto C. [illegible]

supra. Et [illegible] constitutio loquatur tantum in tacita [illegible]

[illegible] expressa [illegible] verbis ipsius constitutionis, [illegible]

constitutio [illegible] vult denotare [illegible] [illegible] verbo [illegible]

[illegible] vero vult denotare veritatem [illegible] verbo [illegible] imposi-

[illegible] dicit namque constitutio mulieres dotatas [illegible]

caeteris aliis omnibus creditoribus preferuntur, etiam si sint illo tempore

anteriores et priores hypothecam videntur habere, quasi velit

dicere quod illi qui prius contraxerunt cum illo cuius bona sunt po-

obligata pro dote, vero sunt anteriores tempore, nam [illegible]

contraxerunt; et sic [illegible] verbo sint, [illegible]

[illegible] veritatem [illegible] necessitatem, ut [illegible]

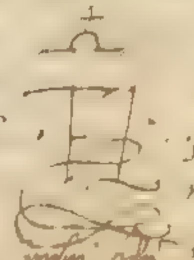
petitio [illegible] subdit consilio, [illegible] hypothesi [illegible]
quasi dicat [illegible] priores [illegible] fingantur [illegible]
quia de natura [illegible] ut [illegible]
in l. si [illegible] § [illegible]
in qui [illegible] ff. [illegible] voluisset
[illegible] fictionem [illegible]
[illegible] hypothesi [illegible] atque non [illegible]
allegat [illegible] praedicta proprie procedit [illegible]
provenit [illegible] fictione ut [illegible]
interpretationem [illegible] veram ex propria verborum significatione [illegible] tanto
magis tenemur [illegible] quia non [illegible] statuta [illegible] verba [illegible]
proprie et stricte intelligenda. l. [illegible] § si [illegible]
l. quicquid astringendae ubi [illegible] ff. de verb. oblig. [illegible]
[illegible] latissime [illegible] repetitione [illegible]
[illegible] intelligendo [illegible] tacita [illegible] expressa [illegible]
de iure communi [illegible] nobis [illegible] possibile [illegible]
[illegible] intelligere [illegible]
prout esset in casu nostro in quo [illegible] inferendo [illegible]
[illegible] ita contra [illegible]
verbo [illegible] ubi [illegible] ff. [illegible] § in computatione [illegible]
[illegible] in v. volumine [illegible] plenissime in l. omnes populi
ff. de iust. et iur. [illegible] ita intelligendum [illegible] ius commune, ad quod
interpretationem [illegible] secundum ius commune, a quo
[illegible] quia statuta [illegible] ad intelligendum [illegible] dicit
[illegible] ad audientiam [illegible] non [illegible] facit l. [illegible]
[illegible] de iure communi [illegible]
[illegible] procedit [illegible] ita intelligeretur statutum esset superfluum,
et nihil adderet iuri communi [illegible] § in computatione
[illegible] Alex. [illegible] opinionem [illegible]
in casu nostro [illegible] intelligere constitutionem [illegible]
[illegible] tacitam hypothecam [illegible]
expressam, nihil adderet iuri communi [illegible] iure communi
[illegible] assiduis [illegible] in alio addit iuri communi [illegible]
[illegible] non aut [illegible]
etiam in dotem [illegible] iuri communi non [illegible]
tacitam [illegible]

actio. ut ergo dca constõ aliqd addat [illegible] intellige [illegible]
in dote [illegible] numerat. [illegible] hndib. tacite [illegible] et a iure
[illegible] dict. sfuit, [illegible] et [illegible] in dote constituta [illegible] verba. Constitut. [illegible]
q doti [illegible] habisse [illegible] atq [illegible] cat [illegible] constitutionis
[illegible] hoc constitutu[m] addit [illegible]
[illegible] vitabimus aliud [illegible] quod [illegible] conditoris
iuris [illegible] duo [illegible] carrere [illegible] dem [illegible]
to, a [illegible] abhorret [illegible] potis [illegible]
[illegible] ac [illegible] ut [illegible] diximus [illegible] et
[illegible] ut [illegible] [illegible] inditio [illegible]
[illegible] numerare [illegible]
tione, ut [illegible] hndib. tacite anteriore [illegible] a quibus
doti numerat, [illegible] hndib [illegible]
[illegible] ia [illegible] aliud [illegible]
auferret [illegible] quesitu[m] ipsis creditoribus [illegible] authent.
[illegible] sibi [illegible] bonis mariti [illegible] Gadus
[illegible] ut [illegible] tractatib. de [illegible]
[illegible] quod [illegible] in dote [illegible] sponsi [illegible] mulieris [illegible]
hypothecam [illegible] bonis [illegible] lucrativa. [illegible] dotis [illegible]
mulieris [illegible] lucrativo ut dicit [illegible]
[illegible] Cred. [illegible] prima, ad fi. C. de [illegible]
[illegible] hoc [illegible] generalitas rubrice ipsius Constit. [illegible] verbo
[illegible] constitut [illegible] melioris conditionis [illegible]
[illegible] tractat [illegible] damno vitando [illegible] tractat [illegible]
lucro captando [illegible] solidum [illegible] ff. de leg. [illegible]
C. de [illegible] pigno. [illegible] aliud [illegible] lucrum [illegible]
aliud damnu[m] [illegible] C. [illegible] de leg. [illegible]
[illegible] vitabimus
fraudis quae [illegible] facile [illegible] facili [illegible]
[illegible] debitis [illegible] alieno [illegible] amplicitatis [illegible]
[illegible] obligat ut [illegible] matrimonium [illegible]
ampla dote [illegible] habisse [illegible] ipsam dote [illegible]
[illegible] in dote [illegible] ut dictu[m] fuit [illegible] indubit [illegible]
[illegible]
[illegible] abhorrit [illegible] oportet [illegible]
[illegible] statutis [illegible] admittend. [illegible] erit [illegible]
[illegible] capturi [illegible]
[illegible] ut [illegible]

[illegible] clem. [illegible] aliquid fraudari [illegible]
[illegible] quesito [illegible] l. [illegible] [illegible]
[illegible] quod [illegible] statuta [illegible] dicit [illegible]
[illegible] fraudis [illegible]
[illegible] quod fraudis odio [illegible] ab initio [illegible]
[illegible] fraude [illegible] annullat [illegible] l. [illegible]
[illegible] ergo huiusmodi fraudis [illegible] ita facili
[illegible] inimicas [illegible] inimicas [illegible]
[illegible] intelligendum
[illegible] constitutionem, ut non [illegible] expressa
[illegible] ut fraudis [illegible] statuta [illegible]
[illegible] de cler. [illegible] c. quam [illegible] irritat [illegible]
[illegible] ordinationes [illegible] ut [illegible] fraudis [illegible] intelligi
c. [illegible] de [illegible] quod apparet [illegible] omissum [illegible] in fraudem
Ergo [illegible] ut fraudis [illegible] ut [illegible] contrarium [illegible] discipli-
[illegible] debemus constringere statuta [illegible] quod [illegible]
[illegible] intelligendum quod constitutio loquatur [illegible]
[illegible] non autem [illegible] expressa [illegible] superflua [illegible] nihil adderet [illegible]
[illegible] verba generalia constitutionis. Nec obstat [illegible]
[illegible] constitutionis, quod [illegible] intelligi [illegible]
hypotheca [illegible] principalia [illegible] bonis [illegible] fideiusso-
rio, [illegible] expressa [illegible] obligat [illegible]
[illegible] tacita obligatio [illegible] late [illegible]
[illegible] ut plurimum c. de [illegible] [illegible]
[illegible] intelligi [illegible] in expressa obligatione [illegible] hoc minus [illegible]
[illegible] regula [illegible] sufficit [illegible] aliquo [illegible] de regula, licet
non [illegible] omnino [illegible] qualitate [illegible] regula [illegible]
[illegible] Ergo [illegible] credimus [illegible] salvo [illegible]
[illegible] dictam constitutionem debere intelligi. [illegible]
[illegible] ab [illegible] facto [illegible]
[illegible] debito [illegible]

[illegible]

[illegible] publicar [illegible]
[illegible]
[illegible]
[illegible]
Nicolao [illegible]



Ego [illegible] [illegible] [illegible] in urbe [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] originali [illegible]
[illegible] [illegible] [illegible] [illegible] signo [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] subscripsi

p. vetus... ordinar credit

Contractus Simulati.

In mat. Libelli.
In mat. simp. locati.
In mat. Emphiteosis.
In mat. pacti uellatio sit empti.
~~[illegible] passet iure hereditis~~
~~[illegible]~~
In mat. Comeatus.
In mat. declinatorie fori.

[illegible]

[illegible] domino Francisco [illegible] et Erasmo [illegible] nobili [illegible]

[illegible] expedit [illegible]

[illegible] nostro [illegible]

[illegible] de la turre [illegible] in camino

[illegible] consilii [illegible]

[illegible] brotheo [illegible]

[illegible] loci [illegible] a lege facere [illegible]

Consilium [illegible] domini [illegible] C. 120 [illegible]

[illegible] honorabiliores [illegible] terre unum consiliarum

ad [illegible] appellationum [illegible] deputatum per prefatum

dominum locumtenentem, de [illegible] contra [illegible]

[illegible] a lege mandamus [illegible] quidem consilium

illico [illegible] factum [illegible] tenor de verbo

ad verbum talis est [illegible]

[illegible]

[illegible] obli[illegible]

[illegible] dato [illegible]

[illegible] vere [illegible] re[illegible] sum prestantissimum doctorem domi[num]

[illegible] legitimatio [illegible] exalta[illegible]

deffendentem occasione certe manutentionis [illegible]

consensu [illegible] ad consulendum [illegible] magnificum et clarissimum virum dominum Geronimum Barbadico prior[illegible]

locumtenentem dignissimum [illegible] et [illegible]

visis [illegible] et articulis attestationibus [illegible] productis

ac denique toto processu diligenter considerato et quicquid

dici potest [illegible] et allegari voluerunt tam oretenus quam in scriptis, circa omnia superfluis, tamen omnia videndum

[illegible] omisso circa casum, qui distincte ex eo patet in consilio

domini primi consultoris qui requiruntur [illegible] ad propositum, ut dictus contractus dicatur simulatus et in fraudem usurarum receptus. Et in hoc sunt oppinio omnes;

nam Cynus in l. [illegible] [illegible] quod agitur concludit

quod etiam si interveniat pactum de revendendo et etiam

quod quis sit usurarius et etiam [illegible] quod nichilominus

non presumatur contractus simulatus [illegible] cum [illegible]

cum quis sit usurarius, potest tamen facere verum contractum

emptionis, et quod pactum de revendendo de se licitum est

[illegible] de pactis inter emptorem et venditorem. Et

[illegible] non videtur nocere, [illegible] quod habet

[illegible]
[illegible]
[illegible]
[illegible] florentinus [illegible]
[illegible]
[illegible] valere [illegible] [illegible]
[illegible] ad [illegible] voluisse [illegible]
dicit quod quando contraxit [illegible] cum pacto de
[illegible] [illegible] maxime [illegible]
maxime si pactum est de reuendendo post certum
tempus et sic predictam maxime [illegible]
[illegible] ad obolendum [illegible] l. [illegible]
ad l. aquilia [illegible] si pactum
sit de reuendendo usque ad certum tempus [illegible] simpliciter
[illegible] voluisse quod [illegible]
[illegible] cum pacto de reuendendo quandocumque placeret
venditor [illegible] contractum usurarium [illegible]
[illegible] si emptor [illegible] usuras [illegible]
[illegible] baldus [illegible] illo [illegible] ubi [illegible]
que [illegible] maxime et sic [illegible] glo.
predicta voluisse quod etiam in non [illegible]
[illegible] contractum [illegible] etiam
videtur [illegible] archidia. xiiij. q. iij. [illegible] plerique

[illegible]

[illegible] fructu[illegible] ad extra[illegible]

[illegible] simo rationabili[illegible]

[illegible] zorne, [illegible]

[illegible] fuerit [illegible]

dubitari posset [illegible] vero [illegible]

ut fuerat [illegible] contractum [illegible]

in [illegible] ad [illegible] vix [illegible] Dico [illegible]

[illegible] vix dimidia iusti precii [illegible] fuerat [illegible]

contractum [illegible] dictus vix in effectu [illegible]

— [illegible] non [illegible] remedium

L. ii. C. de rescind. vend. [illegible] non fuerit [illegible]

[illegible] Johannes [illegible]

[illegible] quia magis expediebat

sibi dictum contractum [illegible] fuisse simulatum [illegible]

vera fuisse [illegible] fructus [illegible]

in sortem, quod non fit, quia intentatur remedium [illegible]

L. ii. Si autem dicas quod dictus vix notet [illegible]

quia [illegible] quod vix fit [illegible] fit. L. x

[illegible] ff. [illegible] non habent [illegible] locum. [illegible] L. ii.

ex quo non [illegible] deceptus ultra medietatem iusti precii

[illegible] Ex quibus [illegible]

[illegible] putamus [illegible] contractu [illegible]

— [illegible] debeat intelligi quod est [illegible] ex quia

repellitur deceptus [illegible] iusti precii, Et istam opinionem [illegible] videtur [illegible]

Laurentius [illegible] Florentia in tractatu [illegible]

de usuris [illegible] xii. [illegible]

[illegible]

ff. de minor. [illegible]

[illegible] cum. q. etiam debet precedere quod contractus
sit licitus si potest contineri licite [illegible] . si si no po
test de re que ostenditur [illegible] l. x. cum non posset
[illegible] nisi p. d. [illegible] tunc credit hunc contractum fraudulentum
ex quo constitit aliter dare non posset [illegible] quod tamen
fuerunt obligationes personales et pignora illo vos de
emp. [illegible] ad certam Et hic producunt tunc [illegible]
secundum eum, quia non est adiectum pactum de revendendo,
si enim adiectum foret tunc, si pro eodem pretio
illum licitum, secus si pro maiori vel minori pretio. Sed
nunc videtur quod debeat sufficere minoritas quae ascendat
ad sextam partem secundum [illegible] l. si societatem. ff. pro socio,
ut saltem, quod hoc remanere debeat in arbitrio iudicis
si quanta pravitas sufficiat secundum glo. insti. de contra. emp.
et ven. § pretium et maxime quia non est taxata quantitas
[illegible] hac facere presumi fraudem unde videtur remissum
in pectore iudicis arg. c. de causis de officio dele.
et l. i. de iure deliberan. pro quo tamen facit quod dixit dominus

[illegible]

[illegible] ... dicti ... certum tempus [illegible]

... aliter quam plus fuit venditum quam pro ... pretio. Et primo

videtur intelligi[?] ... pactum de ... vendendo ...

... pro ... Forzate et totius ponit

... pro ... dictam ... in facta licet obscure

... posuit pro ... [illegible]

Et ... videtur intellexisse ... Nam ...

starioz octo cum dimidio frumenti fuit venditum pro ducatis

sexaginta. Et sic ... fuit venditum

facta ... marchis quinque soldis ... quatuor pro ...

quod videtur fuisse iustum pretium secundum maiorem partem

testium examinatorum super hoc, ac clarius ac sufficientius

deponentium ... et rationes ... reddentium.

Cum testes in effectu videantur deponere, quod quinque marche

vel quinque cum dimidia usque ad sex fuit tunc iustum

pretium pro uno stario frumenti de illo, licet aliqui

ipsorum deponant quod unum starium frumenti aliquando etiam

fuit venditum pro septem marchis, et aliquando pro

octo quia hoc ... contingit quandoque propter affectionem

quam habet ad unam rem, vel ad unum locum.

[illegible] minor [illegible]

[illegible] extraneos [illegible] aequo [illegible]

[illegible] pontus [illegible] tanta [illegible]

sufficiat ad faciendum [illegible] eundem [illegible]

[illegible] iudicio [illegible] remanere [illegible]

[illegible] glo. [illegible] alia [illegible]

[illegible] allegatur vel [illegible] ad hoc quod aliqua [illegible]

intellexisset [illegible] quod non [illegible]

accedat ad [illegible] quae si intellexisset forte sufficit

[illegible]

[illegible]

[illegible]

[illegible] p[illegible] [illegible] ex [illegible] p[illegible]

[illegible] [illegible] presumitur ut contractus presumatur

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] partium & [illegible]

[illegible] [illegible] [illegible]

de parte [illegible] [illegible] contractum non

presumi [illegible] [illegible] ratione [illegible]

[illegible] [illegible] [illegible] mulie[illegible] [illegible] fraudis

consilium [illegible] [illegible] dicunt. bal. [illegible]

iomeus [illegible] [illegible] alegans. C. de. [illegible]

qui dicunt [illegible] qui consueverunt fenerari presumitur

fraus [illegible] alio maxime [illegible] est persona [illegible]

[illegible] [illegible] [illegible] simplices [illegible] mulieres

[illegible] quibus [illegible] presumitur fraudis consil[illegible]

[illegible] [illegible] [illegible] maxime in ignorantibus

[illegible] [illegible] [illegible] inducere presumptio

ad faciendum [illegible] contractum fuisse contractum

[illegible] [illegible] [illegible] non

est necesse [illegible] presumptionibus [illegible] non [illegible]

locus est [illegible] [illegible] ff.

[illegible] [illegible] [illegible] contractum

fuisse [illegible] venditionis [illegible] non pignoris [illegible]

[illegible] [illegible] [illegible] Antonij [illegible] ad

[illegible] [illegible] [illegible] Dorotheam [illegible] etiam

[illegible] parte [illegible]

[illegible]

[illegible] id est [illegible]

[illegible] dicitur pena in

contractu [illegible] facto et non [illegible] pena potest

[illegible] ut [illegible] fo

[illegible] Florentinum tractatu [illegible] q. Lxiii

ubi an pena adiecta in contractu [illegible]

[illegible] si pena apposita

[illegible]

[illegible] facto ab illo qui non est [illegible]

[illegible] emptio [illegible]

[illegible]

dum [illegible] hoc tenuisse. Sed in casu nostro

pena est adiecta [illegible] que non

[illegible] si non solvit [illegible]

[illegible] possit [illegible] et ipse emptor [illegible]

tribus [illegible] in tribus annis sic

possit intromittere de possessione iuxta consuetudinem

[illegible] talis clausula non videtur [illegible] in

et pena potest exigi [illegible] constat enim

[illegible] istud succedit loco pene [illegible]

[illegible] exigit [illegible] cessat

exactis [illegible] si ... ipse ...

[illegible] ... p[er]fecte ... [illegible]

q[uod] non auciat [?] contractu emptoris q[uia] non sunt sol[...]

[illegible] circumstantie apposita in contractu emptionis ... [illegible]

... [illegible] fraudis usurar[um] ... [illegible]

[illegible]

pacta apposita in contractibus dummodo non sint contra[ria] substantie ... [illegible] valent ... [illegible]

contraria ... [illegible] ... pactum non sit

contrarium ... [illegible]

expressum si non solverit ... [illegible] a iure

suo impositis ... [illegible] ... pretio

que consuetudo inheret iuri com[muni] et magis favorabilis ... [illegible] a iure disponitur q[uod] solvens

canonem si cessat per triennium in privato et

in ecclesia per biennium absque aliqua interpellatione

[illegible] ... potest ... [illegible]

et ... [illegible] emphyte[otico] l. ii. ... [illegible] Si ergo idem

queritur q[uod] tacite inest illud exprimendo non potest

dici pactum extraneum a tali contractu emptionis

[illegible] Est tamen verum q[uod] in simplici contractu

emptionis ubi venditur et traditur res tale pactum

esset contrarium q[uia] ex quo tradidisset venditor

nil remaneret apud eum. Et ... [illegible] contractus

a iure tolleratur ... [illegible] in ... [illegible]

[illegible] ... de ... c ex ...

[illegible] ... et

[illegible] ... [illegible]

[illegible] ... ratione constitutionis ... [illegible]

[illegible] ... [illegible] ... infra ... [illegible]

[illegible] ... terre ... [illegible]

... signatos xxx ... [illegible] ... qui ... est

celebratus contractus ... per legem et decretum [illegible]

xii. cap. ... [illegible] ... viii. ubi

[illegible] ... [illegible] ... dum ... [illegible]

possint ... [illegible] ... si per executionem [illegible]

... [illegible] ... [illegible] ... solius iudicis hoc

probat quotidie, cum dicitur ... ad [illegible]

et [illegible] Et etiam instrumentum emptionis confectum

... [illegible] ... [illegible] Nam

dicit ... iure [illegible] ... et cum ...

... [illegible] ... solo iudicatum ... [illegible]

contractu emptionis ... [illegible] ... executiua

mero ... obstare. Ex quibus omnibus supradictis

repetito nomine domini nostri Iesu Christi dico et consulo partes

[illegible] ... viri domini Geronimi ... [illegible]

[illegible] ... [illegible] ... fore et

esse in [illegible] et [illegible] bene iudicatum

[illegible] dorothee [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

tenore. [illegible] Laus deo. [illegible] et [illegible] sunt

esse. Ego franciscus [illegible] [illegible] et ad

[illegible] [illegible] propria [illegible]

Et in fidem premissorum [illegible] manu [illegible] et [illegible]

sigillo sigillavi. Quod consilium [illegible]

[illegible] dum non [illegible] dudum

et intellecto, per dominum Geronimus barbadico locumtenens

[illegible] [illegible] in omnibus et per totum [illegible]

in [illegible] [illegible] continetur.

Quam sententiam sic latam [illegible] dominus franciscus [illegible]

et dominus Erasmus [illegible] dicte domine dorothee [illegible]

et [illegible] dictus [illegible] Nicolaus de la Turre [illegible]

cum domino Jacobino [illegible] advocato [illegible] a dicta sententia

sic lata et promulgata appellavit ad magnificos et

spectabiles dominos iudices [illegible] Communitatis. Qui

domini franciscus et Erasmus dixerunt ipsi [illegible] ulterius

non posse cum due sententie [illegible] conformes

[illegible] in favorem [illegible] domine dorothee et [illegible] appellari

non poterat.

N. Mercia Cornnelius [illegible]

Divino [illegible] inspirato suffragio Casus [illegible] de quo in prō qu
agitato [illegible] [illegible] [illegible] ex una Aterm. et [illegible]
ac [illegible] de batalia noit suo. et [illegible] de Conuisio
ex al'a. Omissa narratione ipsius processus cum ex [illegible]
ra satis uideantur [illegible] [illegible] rei conuictos esse in Casu
[illegible] nō ob [illegible] exceptionem fori dec[linatoria]
que nullo modo procedit in p̄nti Casu. Nam licet vestr
clara [illegible] iuris decisio. Actor [illegible] forum
rei. ut in [illegible] ordinem. et l. in Criminali. [illegible]
iurisdi. omni iud. et per [illegible] c. Si clericus. ex. de foro
comp. et. xi. q. i. experientie. Attamen. ll. allegate
quam iures [illegible] [illegible] habetur. per d. Jo[annem]
in suis fall. super [illegible] x qui incipit Actor. et per d.
[illegible] in l. de [illegible] ad. §. Generaliter. ubi nō[tat]
dicim. quod [illegible] contractus [illegible] quis cora nō suo
iud. [illegible] l. Corame to. sub quo [illegible] ergo cu [illegible]
d. [illegible] Actor in [illegible] Causa hic [illegible] Contraxerit
cum [illegible] reis [illegible] ut [illegible] locationem in [illegible]
productam. Merito potuit eos in foro [illegible] conuenire
nam ibi uidetur [illegible] ubi est destinata solutio. l. Contraxisse.
ff. de actio et obli. Nec ipsis consortibus de batalea prodest
allegare locationem ipam nō ualere. cum [illegible] fuerit [illegible]
manu ppria [illegible] [illegible] [illegible] [illegible]
a testibus subscripta. cum de ea [illegible] [illegible] pbatio[nem]
obtinet. l. scripturas C. qui po in [illegible] quod modo
probata uideatur dicta locatio. clare colligitur depos[itionibus]
tonibus Cypriani del bono. nec nō [illegible] Antonij de [illegible]
rellis [illegible] supradicti examinatis. qui [illegible] plene pbat[i]
[illegible] [illegible] [illegible] [illegible] [illegible] iudicij declinat ex
[illegible] de non consentiendo in iudicium [illegible] Nichilominus
[illegible] [illegible] uidentur renunciasse [illegible] [illegible]
[illegible] protestationi. cum litem [illegible] fuerint. sup [illegible]
[illegible] dato. dicentes nō esse [illegible] [illegible] [illegible]
ac [illegible] [illegible] [illegible] [illegible]
decisione [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] cum semel [illegible] consensum [illegible] iudi[cio] [illegible] sup excep[tione] [illegible] [illegible] [illegible] iudicium [illegible] [illegible] recipitur

corporat[illegible] ex quibus omnibus [illegible] dispositionis [illegible]
m[illegible] vicarium [illegible]
[illegible] sequens protestationi contrarium [illegible]
[illegible] m[illegible] c[illegible] formam [illegible]
[illegible] de consilio [illegible] gratiam de offi[illegible] et [illegible]
[illegible]
[illegible] concernens judicium incepturam [illegible]
[illegible] seu defensus.

Restabit igitur [illegible] an [illegible]
[illegible] de jure procedere habeat [illegible] sicut [illegible]
[illegible] infringi potest [illegible] conductor[illegible]
[illegible] locatori pacto [illegible] eodem [illegible] loca[illegible] et ibidem
[illegible] qui [illegible] corrobor[illegible] dispositioni [illegible]
[illegible] produc[illegible] autem condu[illegible]
[illegible] non [illegible] ipsi locatori pactum [illegible]
[illegible] super ultimo [illegible] ipsius [illegible]
[illegible] deponi[illegible] dicti [illegible]
[illegible] statuti [illegible] de affictu [illegible]
[illegible] locatori [illegible] quandam [illegible]
[illegible] etiam de dicto [illegible] soluto [illegible]
[illegible] locatori [illegible] fuit alia [illegible]
[illegible] disponit [illegible] sub [illegible]
locator cum [illegible] statuto ex quibus omnibus [illegible]
[illegible] in laudando ac confirmando [illegible]
expensis de quibus [illegible] ad laudem [illegible]

Questio causa vertentis inter Ant.m ... comici ex una agente, et Baldu d Petre Iormas d toldo ex altera se tuentes est quidem no ambigua, tria tn capita continet d quibus querendum videtur.

an ipsi rei potuerint coram R. V. conveniri, ac citari etiam ibi vigore rone conventionis ibidem facte.

... dociliter concludit q si actio illorum ... fundata sup conventione potuissent ... no, et hoc in iure no hr dubium in casu nro cesset actione fundata re sup lata culpa pastoris ... ideo agendum ... ubi culpa ... comis.

Neq obstat q ipsi rei porrexerint term ad respondendum ... petitione ... excipit ... ergo rei venient absol... a pntis iudicij observatione, cu forus eorum sit gravandi vedendo singula singulis Bar. in l. i. in fi. ff si q s in ... l. fi. C. ubi in rem actio, Alex. in l. heres absens p si qs tuti ... l. in cotractibus ... Alex. in l. qui Rome ... d uer. oblig. spec. d cosp. ... circa hoc et seq. ... d locat. ...

2° Queritur si potuissent conveniri coram R. D. V. an ex deductis in processu sit ferenda snia p actore, vel rei veniant potius absolvendi, et in hoc concludo reos esse absolvendos ex pluribus p° cu ipsi rei ... ipsis seu pastori suis fuisse oves illas numeratas ... quo illas ipse actor coduxit sup monte, neq tpe quo illas rehabuit, ... illius actio fundata est in nervo, sed sequitur q actore n probante reus absolvitur ... vulgaribus, si n. voluisset q dicti conductores montis tenerentur p ovibus ... ipsis numerare, neq illis pntib numerum retroaccipere ... illos no teneri neq numeratas tradere neq numerum rehabuit, absurdum n. est q maiorem diligentiam ... tenerentur in ... in propriis l. ... depositi in fine, si aliqua esset ... certo no est, tunc diceret q parum sibi diligentie sociu acquirit ... debet l. socius ... l. quis cum alio ... neq ignorantia sua illi prodesse ... d reg iur. l. ij C. d furt.

certu est q ipsi coductores montis no tenentur nisi de culpa lata et d dolo, ergo neq d culpa le

ni, neq levissima ac minus, de casu duc. late ni
lignorna, q. ad casu, ac nō negligentia past
oves mortua, q.erme pbant testes eiusd. adve
rsis pr. à car. 10 sup 5º sup int. q dicit
l'ie gore andorno in una fornase p caso, ergo
culpa ac negligentia. Sequitur testis pban, casu
fortuitu, dicens, gl'era una busa d'una fornase
Dio sa qn . . fatta, mencel lhaueua ben messe
bon luogo lui, probat diligentia pastorum, simi
uls. testis à car. 14 à tergo sup 5º sup interrogatorio
dicit, che le Piegore andorno li p disgratia, et
negro fosse stato li nō saria stato altrimente, pbat igi
tur ipse quoq casu fuisse mortuas, et sub . . .
Quod aut pastores fuerint diligentes, īmo diligen
pr. testis sup int. sup 4º cap. à car . . dicens, le mena
uano li tosi, pche su la montagna crepauano da caldo
era da beuerarle . . , le menauano p governarle, et han
hauto meglio pche su la montagna crepauano da sete
Similiter tertius à car. ij. à tergo sup 4º et eius interrogat.
dicit, . . si che li pastri lhano menate pncerpsia pchi ne
pauano acqua da beuerarle, et hano hauto bon zeno
p il le beueua che su la montagna le crepaua da sede
q. et ipse . . nō numeraverit oves suas, pbat . .
sup . . . et eius interrogatorijs à car. . ij. ubi, io nō so . .
bene numerate alli capi de la montagna, . . me le dettero
in stella, . . nō furno numerate, . . licite al padron
sequar, dar . . nota un . pia . . . poco . . . co.
Deinde q. nō tenebatur, ostendere signa, pbat idem
Et pbat etiam q. nō tenebat p negligentia q. a tenetur . .
re illa diligentia . . adhibent . . . . suis, . . ipse
unde car. à tergo sup 7º et eius interrogatorijs deponit
li capi sono tanto obligati a far delle . . . d'altri . .
dine sue, ma nō sono obligati numerarle ne à darghe
p. conto, ne manco à darghe li signi di tutte, pche li . .
ne . . . ano, et ne vano nelli valoni et altrimenti . .
che nō se puole haver signale aluno.
Quo vero ad capras illius abductas qua . . . ad . .
tres tn sup hoc 7º cap. et . . . .
à car. 12 et 4º à car. 13, q deponunt sese . . .
ab alijs . . . . abducatur, absq tn culpa pastoz.

q̃ et plus petierit. quam passus sit, probat unus testis à car. 15. dicens q̃ ... Ant.s dicebat se nouem oves amisisse, et postea unam inuenit, et tamen nouem perijt. ecce q̃ plus petit, male petit
sed ut constat ex ... neque unam petere potest, neque de iure ut probatum est, neque de consuetudine ut probat 3.s testis à car. ij. à tergo in prin. sue interrogat. 2.i capituli ubi, et li cappi no sono tenuti mai a pagar animali che uadino de male su la montagna, anche se fossono obligati non si caraterà mai montagna, item à car. 12 à tergo in prin. sue interrog. 8.i capituli dicit, per mia cosciencia no è il solito che paghino animali che uadino de male. Hoc idem affirmat alij testes duo dicunt de animalibus deperditis ... et tamen ipsi non petierunt et minus petunt solucionem aliquam, prout 5.s à car. 14. à tergo, dicens glie ne erano doi mie. Certe si ipsi testes fuissent producti ab ipsis reis melius pro ipsis deponere non potuissent, quia scilicet ita res se habet, et aliud à peritis dici non potest.
Constat igitur nil esse in libellis actoris probasse, imo contrarium non reorum clare probant ipsi testes ut ostensum est, ideo procul dubio ueniunt diffinitiue absoluendi.
3°. Et ult.° quero an defferendum sit iuramentum in supplementum probationis et procul dubio dicendum est q̃ non, et breuiter quia post publicationem testium petitum fuit, quia non unicus testis examinatus, quia nullus pro ipso actore petente iuramentum hoc deponit, quia non solum semiplene non fuit probatum, sed probatum fuit contrarium, et sic ridiculum est petere iuramentum ad suplimentum probationis ubi ... sine presumptionibus imo probationes contra ipsum actorem. Hoc. et mag. Jas. in l. admonendi ff. de iureiur. ...

colonus antiquus [illegible]
Jus colonatus pot [illegible] cui.
Emphiteuta [illegible] colono canonis [illegible] nisi [illegible]
colonus expelli non pot nisi [illegible]
No. x purgatio [illegible] | [illegible] dies [illegible]
Estimum [illegible]

Jn . illat . [illegible] Vsuarij

[illegible]

Et f. [illegible]

[illegible]

henn [illegible]

dum dic̃o [illegible]

me dicens iratus [illegible]

et pui[illegible] et dominus [illegible]

euangelista [illegible] honorem meor[illegible]

amen. [illegible] isto puncto et [illegible]

Ubaldus de Urbino legum doctorem [illegible]

doratee. Et consilio p[illegible] pro [illegible]

facto p[er] excellentissimum [illegible]

Iohannes de melso [illegible]

Aurolagi nō videns esse [illegible]

Cum [illegible] primo fit [illegible]

et p[illegible] [illegible]

contrahere empto. et littera [illegible] alijs ibi [illegible]

de tre [illegible] facere [illegible]

[illegible]

o ubi nō habent [illegible] nō [illegible]

[illegible]

[illegible] intellectū [illegible]

[illegible] sig[illegible] et q[uod] potuit attendere [illegible]

[illegible]

[illegible]

[illegible] sed [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] lege nulla dubitatio [illegible]

[illegible] glo. [illegible] [illegible] p[er] Bal. [illegible]

[illegible] illa aut ille [illegible]

[illegible]

miria [illegible] nostra [illegible] non [illegible] si [illegible] consti-
nerit [illegible] verba [illegible] intelligi [illegible]
[illegible] ipsa [illegible]
[illegible]
[illegible] ipsa [illegible] suppositio [illegible]
[illegible] z abbate [illegible]
[illegible]

[illegible] dimidia [illegible]
[illegible] dimidia [illegible]
[illegible] contractus [illegible]

[illegible]

conuenire [illegible]
placet consultatio [illegible]
[illegible] est [illegible]
[illegible]
sedium [illegible] contra [illegible]
et maxime de [illegible] est [illegible]
[illegible] facere unde [illegible] remissum [illegible]
[illegible] de off [illegible] dale [illegible] fra
[illegible] dixit [illegible] de Lodouicus de florentia in
suo tractatu de [illegible] cxx. ubi dixit [illegible]
[illegible] in [illegible] iudicium [illegible]
[illegible] allegans in [illegible] c. de usuris / ubi [illegible]
[illegible] multum [illegible] in iudicio [illegible]
[illegible] opportet [illegible] insula
[illegible] potuit in [illegible]
[illegible] facile [illegible] sanandum [illegible]
[illegible] maiore [illegible]
[illegible] de [illegible] usuris [illegible]
[illegible] animalis de [illegible] sunt
[illegible] libertate [illegible]
[illegible] ibi [illegible] est [illegible]
[illegible] de Confessione [illegible]
[illegible] sanguinis [illegible]
[illegible] de pace [illegible]
[illegible] potuit [illegible]
[illegible] facile est [illegible]
[illegible]
[illegible] in isto [illegible]

[illegible]

[illegible] ista non [illegible] [illegible] utrum sit bonum [illegible]
[illegible] bonum [illegible] et [illegible] bonum [illegible] non convenit [illegible]
[illegible]
[illegible] pro [illegible] quod [illegible]
[illegible] de [illegible] empt[illegible] quod [illegible] bona fide [illegible]
[illegible] non est bona fide [illegible]
[illegible] Et [illegible]
[illegible] pro [illegible]
[illegible]
[illegible] emptore [illegible] est bona [illegible]
[illegible] de [illegible]
[illegible]
[illegible]
[illegible]
et [illegible]
[illegible]
[illegible]
[illegible] et [illegible]
quod ipse debet [illegible]
[illegible] Ex quo [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

mpno d[illegible] fa[illegible] est [illegible]
absque alio [illegible] [illegible] [illegible]
[illegible] hoc [illegible] [illegible]
[illegible] ubi dicit [illegible] [illegible]
[illegible] fraus [illegible]
[illegible] [illegible]
[illegible] dotis [illegible] [illegible] [illegible]
[illegible] est magna [illegible] dicta [illegible] est [illegible]
alia [illegible] [illegible] debebit [illegible]
[illegible] libere possessio [illegible] bonorum [illegible] erat ne
cesse [illegible] si non soluit [illegible] [illegible] [illegible]
dictorum bonorum [illegible] contractus emptionis esset [illegible] esse
debebat ipsi possessionem [illegible] bonorum [illegible] propter [illegible]
[illegible] empto [illegible] [illegible] [illegible] Ex quo
[illegible] patet [illegible] non fuit in possessione [illegible] bonorum
sed ipse [illegible] possessio [illegible] presumptio
fraudis [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] post [illegible]
[illegible] non [illegible] C. de rescin. [illegible] [illegible]
[illegible] [illegible] tollit
suspitionem [illegible] [illegible] [illegible]
[illegible] [illegible] Quia illud
est [illegible] tollit suspitionem fraudis [illegible]
ex dicta possessione resultaret [illegible] ubi de fraude con
tractus contractus [illegible] [illegible]
[illegible] nostro [illegible] presumptio a fraude [illegible] est ne
cesse fateri [illegible] [illegible] [illegible] principali

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ... sententia ... [illegible]

[illegible] ... si per inue

[illegible] ... pater ... [illegible]

[illegible] ... [illegible]

contractus respectu contractus emptionis ... predicto ... [illegible]

est ... de iure dicto ... possidetur possidetur ... [illegible]

possessionis ... [illegible] ... possessione ... [illegible]

[illegible] ... ipsum emptorem mitti ... [illegible]

[illegible] ... fructus ... [illegible]

[illegible] pater ista contractus ... admitti ... [illegible]

[illegible] ubi ... [illegible] ... possessio

[illegible] est necesse ... [illegible] ... Unde ... [illegible]

... fraude usurarum ... non vere erat emptio ... pignus

et ... est presumendum ... dictum fuisse pignus et ... [illegible]

fraude usurarum confectum dictum ... [illegible] ... etiam ...

... pena fuit adiecta ... et non fuerit ut ... [illegible]

... consilium ... [illegible] ... clare presumitur

... fraude maxime quia est adiecta sub nomine dupli

... quando est ... [illegible]

... ubi ... [illegible] ... et de qua materia tractatur

... [illegible] ... [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ... [illegible]

... modicam ... [illegible] ... [illegible]

... [illegible] ... [illegible]

... [illegible] ... [illegible]

... usurarum ... [illegible] ... non sufficit ... [illegible]

parte de reuendendo cum moderatione p[re]tii q[uod] offertur ad dimidia
vel infra dimidiam et si co[n]sulere d[omi]n[u]m Antoniu[m] q[ui] ita vult [illegible]
[illegible] eum istis sit tot [illegible]
[illegible] merito p[otes]t dici [illegible]
[illegible] si n[on] p[otes]t simula[illegible]
[illegible]
[illegible]
[illegible]
non fuisse s[ed] [illegible]
[illegible] la dolum n[on] p[otes]t probari nisi [illegible]
[illegible] ad dolum ex d[ic]to [illegible]
respon[illegible] [illegible] cum [illegible] Nec
[illegible] obstat [illegible]
[illegible] allegando [illegible]
que sit dimidia iusti p[re]tii [illegible] altera dimidia allegando [illegible]
[illegible]
[illegible] p[re]sumptionem
et magis [illegible] p[otes]t dici [illegible] instrum[entum]
partis de reuendendo fuit factum [illegible]
ut fuit [illegible]
[illegible] q[uia] p[otes]t esse q[uod] fuit instrum[entum] vendi[tionis] [illegible]
a principio et postmodum [illegible] emptor mutauit p[ro]po
situm et voluit vendere et vendidit [illegible]
fecit [illegible] instrum[entum] [illegible]
fuit instrum[entum] aliud cum pacto de reuendendo n[on] p[otes]t esse [illegible]
alia [illegible] Conuentum est q[uod] noluerit vere emere sed
mutuare [illegible] statim fieri instrum[entum]
de reuendendo ut dixi [illegible] facta [illegible]
[illegible] erat ante die[m] [illegible] et loco [illegible]
[illegible] instrum[entum] [illegible]
[illegible]
[illegible] ut dixi [illegible] erat [illegible] partem
[illegible] et non Conueniens [illegible]
[illegible] empt[illegible] [illegible] est [illegible]
ut statim [illegible] erat [illegible]
[illegible] usurarum ut dixi et alia [illegible]
[illegible] pura

[illegible] sue et incipit antiqua
[illegible] se cito ipsius ... [illegible]
[illegible] ... iste est certum
[illegible] est liberum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] omnino [illegible]
[illegible]
[illegible] ut ibi ... [illegible]
[illegible] ... anni [illegible] antea [illegible]
contractus ... [illegible] ... Contractus de
[illegible] Et sic ... cum nostro [illegible]
[illegible] est dubium et primum cum isto [illegible]
[illegible] ... [illegible] petere ... [illegible]
[illegible] ... [illegible] ... [illegible]
[illegible] ... [illegible]
[illegible]
[illegible] ... [illegible]
[illegible] hoc est verum ... [illegible]
[illegible]
[illegible] ... est suppositum de
[illegible] ... dicto ... cum nostro ... [illegible]
[illegible] Nec hoc obstat quod ... dominus Antonius
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] ... cum isto ... [illegible]
[illegible]
[illegible]
[illegible]
[illegible] ... [illegible]
Et mutuum dantem nihil

dari [illegible] in [illegible] de [illegible] sup[er] et. [illegible]
[illegible]
[illegible] ultra sortem sed[um] [illegible] debbare [illegible]
sine scrupulo co[n]scientie in [illegible] debe[re] p[re]sumere [illegible]
co[n]tractu[m] fuisse i[n] fraude [illegible]
[illegible]
[illegible]
[illegible]
[illegible] precep[ti] p[er]ea[n]
[illegible] xxxvi[i] di. facere [illegible]
culpa[m] [illegible] pot[est] corrige[re] neglig[it] emendare [illegible]
[illegible] si [illegible] ecclesia [illegible]
[illegible] pro homine [et] ad hoc
[illegible] ablata restituit. Et qui ad se [illegible]
[illegible] non co[n]ba[t]. [illegible]
esse fraud[illegible]
morte [illegible]
[illegible] possit
[illegible] xxxvi[i].
di. [illegible] Cui non restitu[illegible] non [illegible]
[illegible] Nec h[oc] [illegible] possit [illegible]
vel aliud [illegible] Et [illegible] ne [illegible] precep[ti] [illegible]
[illegible] debita [illegible] potestas [illegible] a peccato
xevi[i]. di. [illegible] xxiii. q. iiii. ipsa pietas ac [illegible]
[illegible] sit [illegible] illud [illegible]
[illegible] Et maxime [illegible] benignitate
[illegible]
[illegible] xxvi. q. [illegible] all[illegible]
[illegible] d[e] [illegible] polita [illegible]
lupna de [illegible] ipso [illegible]
l. si [illegible] ad [illegible]
[illegible]
[illegible] Consacra [illegible]
[illegible]
[illegible]
[illegible] Commutto [illegible] Et [illegible]
[illegible] restitue[re] [illegible] quia ipsa [illegible]

[illegible] dicto [illegible] [illegible] [illegible] dicendum est
[illegible] ipsum fore [illegible]
[illegible]

[illegible] [illegible] fore et esse de iure
[illegible] Ego Iohannes de Zanis [illegible] utriusque doctor
[illegible] in nostro studio
[illegible] [illegible] inclusis sententiis
[illegible] me [illegible] propria manu subscripsi
[illegible]

[illegible]

[illegible] ad [illegible]

[illegible] de [illegible]

[illegible]

[illegible] in [illegible]

[illegible] preferibus [illegible]

[illegible] ac fratrem [illegible] Matheo nost[illegible]

[illegible] capitulis [illegible]

[illegible] Johanne

antonio de [illegible] calcamentibus [illegible]

et [illegible] procura. [illegible]

[illegible] dicto [illegible] et [illegible]

Joh. [illegible] Bernardeo [illegible] patre [illegible]

dignissimo. [illegible] Gevergiis [illegible]

francisco de [illegible] et [illegible] nobis

domine [illegible] de [illegible] parte

[illegible] Johanne de [illegible]

[illegible] ~~incolar~~ Antonio forzate

ac nobile [illegible] de

vero [illegible]

[illegible] apparere [illegible]

[illegible] lectorum [illegible]

[illegible] plenitudine [illegible] Magnifico domino [illegible]

d[illegible] Consilium [illegible] appareat et [illegible]

digne [illegible] Magnificus [illegible]

admonitus [illegible] ubi [illegible]

[illegible] mandavit apparere et [illegible] Quod

[illegible] apparere [illegible]

[illegible] tenoris [illegible]

[illegible] Lanitmans [illegible] manda [illegible]

[illegible]
[illegible] sa[illegible] [illegible]
[illegible]
dorotea [illegible] [illegible] Ricardum de [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] [illegible] [illegible] ansa ut
[illegible] [illegible] commissa ad [illegible]
[illegible] se iure [illegible] ea per magnificum et [illegible]
[illegible] dum. Zachariam trivisano doctorem
et militem tunc locumtenentem patrie more solite
subiectam [illegible] ut [illegible] clarius apparet
[illegible] [illegible] [illegible] et [illegible] [illegible]
[illegible] subiectam conclusionem. Cum
[illegible] nobilis vir ser Antonius forzatte
[illegible] honeste domine dorotee staria frumenti
octo cum dimidio. ad mensuram [illegible]
[illegible] [illegible] et obligavit se et
suos heredes pro primo et singulis annis ad sol
[illegible] predicta octo staria frumenti ipsi domine
[illegible] et [illegible] super [illegible]
in patria [illegible] et eius pertinentijs prout apparet
in Instro, et ad preces ipsius Antonii forzatte
[illegible]
[illegible] [illegible] deinde cum
[illegible] annus [illegible] solueretur, ipsa domina
dorotea obtenta licencia secundum consuetudinem
pigniorare fecit ipsum Antonium pro ficto debito
[illegible] honesta domina
[illegible] Antonii forzatte [illegible] et [illegible]
[illegible] super bonis ipsius ser Antonii [illegible]

[illegible]

[illegible] intra [illegible]

[illegible] Antonius [illegible]

[illegible]

[illegible]

[illegible] intra in [illegible] et [illegible]

[illegible]

[illegible] dorotea [illegible] qua [illegible]

et obligauit idem D. antonius bona de [illegible]

[illegible] et isto modo [illegible]

[illegible] pignus et alias [illegible] tenori quia dictus

contractus fuit simulatus et in fraude [illegible]

[illegible] usurarum [illegible]

[illegible] et ad probandum [illegible] precium [illegible]

dorotea produxit [illegible] instrumentum et aliquos testes examinatos ad probandum [illegible] secundum communem usum et cursum emendi et vendendi tales annos redditus

[illegible] de quo instrumentum fuit [illegible] et [illegible]

pparte [illegible] Antonii p et [illegible] Nicholai [illegible]

produxerunt testes ad probandum dictum contractum [illegible]

fuisse simulatum et in fraude usurarum fuisse [illegible]

[illegible] et [illegible] dicta dorotea [illegible]

similes contractus [illegible] et [illegible] et [illegible]

[illegible] precium [illegible] pacto retrovendendo [illegible] dictum

contractum esse simulatum [illegible]

[illegible] expressa [illegible] quam [illegible]

[illegible] examinare [illegible] emptio annui redditus

[illegible] valor et de iure tales contractus sit [illegible]

et primo respondeo dominum [illegible] tractantem

[illegible] materiam in capitulo [illegible]

[illegible] de usuris [illegible]

[illegible] emitur [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] reddere [illegible] hore [illegible]
[illegible] tanta [illegible] emisset / et [illegible]
[illegible] non est licitus contractus / Argumentum
ex de usur. c. consuluit / alii tamen dixerunt
[illegible] in perpetuum emitur nunquam [illegible] esse
[illegible] magnus
[illegible] per [illegible] liceat continent [illegible]
[illegible] ff. de mino. [illegible] l. in cae. l. a. ij. §. fi.
[illegible] aliquis vendere et forte melius. secundum Innocentium.
Si quis emit redditum ante contractum sive
constitutus fuerit aut puta idoneo ut possesso
vel habenda sive in persona liberi vel rustici.
[illegible] sive sit certus idoneus [illegible] non
[illegible] Item [illegible] sive sit perpetuus
sive ad vitam hominis sive sit ad certum
tempus nec refert sit redditus in pecunia
sive in aliis rebus sive in fructu / semper in
omnibus premissis reputatur contractus licitus
quia est ibi purus et [illegible] contractus
emptionis / nam est ibi pretium / Item est
[illegible] corpus redditus. C. de sacro. san.
[illegible] L. [illegible] in principio in auth. de rebus ecclie
non alienandis. C. de hereditate vel actione
vendita pro tanto hanc ultimam [illegible]
[illegible] non tenet. [illegible] in [illegible] C. in civitate
[illegible] usuraria [illegible] L. in [illegible]
[illegible] ibi refert opiniones recitatas per Innocentium

sine ipperum sine ad tempus regulariter licita sunt et ... ut ... Liberius et C. de Usuris. L. si ex. ff. de heredi ut acts vendita ... L. cum hereditatem z L. sequenti et allegat multa Iura / dummodo non ...

... C. ... de emp. et ve.
z L. ubi omnis. §. ideo papinianus. ff. de acti.
... ...
... ... sequi Ano. Car. florentis in dicto .C. in Cunctis ... qui ...

emptio annui redditus. annuus redditus sit licita et contractus ...
Itemque lapsi ut refert. bar. de Balig. ... ad hec ... Ultima Columna ...
... ... de emptione ... dimidium Iusti pretij hoc etiam notat Io. An. ... ...
... vera secundum aliquos ut refert Inoc. in dicto ... C. ... ...
sine annuus redditus sit constitutus an contractus sine de novo fiat / Inoc ... in dicto .C.
... ...
... ...
... ...
... et c. Dominus Antonius de butrio sequendo Inoc. z Io. an. ... emptio ... ... omnibus casibus ... sit ... ... contractus sit licitus de Iure et ... de consuetudine ... Iullij ...
... ...
et ... persone ... tales ... et emunt et annuos redditus ... non ... et singulis diebus reddituri ...

[illegible]

[illegible] que longam interpreta-
tionem habuerunt. l. minime et l. de q[uibus]
ff. de legi. Et sic consuetudo in patria videtur
[illegible] illorum qui dixerunt, quod
etiam contractus est talis si redditus annuus
de novo constitutus emitur, que oppinio tenenda
est propter consuetudinem predictam et doctores impugnant
[illegible] fideliores
[illegible] Sed hoc premisso
specifice descendo ad casum nostrum propter
opposita per partem dictorum Antonii et Ni-
cholai contra instrumentum ipsius domini dorotheo, quoniam
opponitur quod licet videatur continere contractum
emptionis et vendicionis tamen fuit contractus simulatus
et in fraudem usurarum conceptus, propter tria prin-
cipalia, primo propter parvitatem precii, secundo propter pactum
de retrovendendo, tercio propter consuetudinem
dicti domini dorothei, et tales contractus exercentis,
que tria faciunt plenum contractum simulatum
et usuraticum, ut C. ad [illegible] de em. et ven.
[illegible] de pigno. [illegible] ff.
de pigno. ac. [illegible] cum allegat
C. de usuris ubi per bal. et Salic. et alios qui
dicunt quod contractus probatur usuraticus ex
consuetudine gerentis ut dictum l. [illegible]

et .L. qui semisses .ff. de usuris. et ex apta inst[illegible]
[illegible]
Item ex preordinatione partium firmata. Lue tabellio
[illegible]
probari possit secundum Innoc. ex[illegible] de depo[illegible] .C. grauis.
[illegible]
ratiocinta, quia multi contra[illegible] qui non firmantur
.ff. de edili. [illegible]
generant usurarius alijs modis ut non possit. in
[illegible] .C. nrum et p alios doctores post eum utrum
aut [illegible] propter [illegible]
[illegible] notandum [illegible]
[illegible] non facit contractum usuraticum ut .C. de rescin.
uen. L. dolus. [illegible]
ut in .L. ij. C. de p[illegible] em. z uen. Sed paruitas
[illegible] cum pacto reuendendo post certum temp.
hec duo simul iuncta ut notant doctores in dicta
C. nrum sed quanta paruitas requiratur [illegible] glo.
in dicta [illegible] uidetur dicere quod quando uix dimi
dia iusti pretij [illegible] lectio uix potest
[illegible]
[illegible] ut sit sensus quod tunc generant presum
unt usuraticus qui non attingit medietas iusti
pretij [illegible] possit [illegible] remedium .l.
ij. C. de rescin. uen. si uidelicet esset dictus contractus
usuraticum propter fructus interim perceptos qui [illegible]
[illegible] forte alio modo potest intelligi
lectio uix ut notet [illegible] quod interdum dicimus
quod id quod uix fit [illegible] L. [illegible] ff.
iudicijs. Et tunc non habuisset locum remedium
[illegible] L. ij. de rescin. uen. Cum non [illegible]

[illegible] a tenedur [illegible]

[illegible]

[illegible]

debe[illegible] [illegible] de pre[illegible] [illegible]

[illegible]

p totu perindum [illegible]

[illegible]

[illegible]

[illegible] usurario [illegible]

tempore [illegible]

[illegible]

d[illegible] pro

[illegible]/ Ubi dicit se alias consuluisse i questioe [illegible] [illegible] [illegible] ptextu usurarius [illegible] p[illegible] centu/ et fecerit [illegible] vendar [illegible] de quoddam manso valente ducentos p[illegible] [illegible] centu et pmiserat restitue decimum [illegible] [illegible] [illegible] centum. Nam licet [illegible] qalicet pbetur de maiore valore rei non pp[illegible] psumitur gtractus feneraticius/ et hoc [illegible] no est appositu pactu de computando fructus i sortem/ qz tunc [illegible] secus esset ut in. C. illo [illegible] de pignore. Ubi fuit appositu pactu de computando fruct[illegible] in sorte. Nam ex [illegible] apparet no esse [illegible] [illegible] ducionem de cuius natura est/ ut emptor [illegible] fruct[illegible] suos/ quam oppinionem videtur sequi dno. Jo. de Imola, i dicto. C. ad nram ubi refert. Cy. tenere in L. iij. C. plus valere quod agitur secum si intueat[illegible] p[illegible] de revendendo de [illegible] et q[illegible] [illegible] sit usurarius et etiam puto [illegible] no presumit[illegible] [illegible] fenerat[illegible] [illegible] [illegible] sit usurarius potest facere veru contractum [illegible] [illegible] pactu de revendendo de [illegible] [illegible] [illegible] p[illegible] [illegible] [illegible] pactus [illegible] no videtur [illegible]

etiam

falsum

in. L. dolus. C. de rescin. vendi. et quod notat Innocen. in dicto C. nostrum, cum quia oppinio Cy. videtur transire. Jo. An. in dicto C. illo vos, et dominus Florentinus et dominus Petrus in dicto C. ad nostrum. Sed dominus Antonius de butrio in dicto C. tenet contrarium et allegat Glo. in C. quoque ilius de usuris ubi glo. videtur ipse voluisse quod [illegible]
quandocumque placuerit venditori sive emptor [illegible]
presumi contractum usuraticum allegat glo. in dicto C. [illegible]
quo idem importat quod dicto maxime, Ethano et oppinionem [illegible]
[illegible]
rationabiles ex quo supponitur parvitatem precii interveniret. secundum Jo. de Imola, que oppinio posset procedere [illegible]
infra dimidiam vel usque ad dimidiam cum pacto de revendendo solum post certum tempus, quo casu presumitur contractus usurarius si autem minoritas precii excedit dimidiam iusti precii, puta quod res valebat .x. et fuit vendita pro septem cum pacto de revendendo usque ad biennium vel quecumque tunc non presumatur contractus usurarius et etiam [illegible]
et ita sit vera oppinio Cy. et Jo. An. et aliorum de quibus supradixi qui sunt maxime auctoritatis et ita dicte oppiniones erunt concordate. Modo ad casum nostrum dico quod non intervenit parvitas precii infra dimidiam [illegible]
[illegible]
precium, nam singuli flaviis frumenti de [illegible]

Limitatio nova
[illegible]

[illegible]

[illegible] quitate [illegible]

[illegible] habet [illegible]

[illegible] uterine [illegible]

[illegible] conjunctis [illegible] plane simpliciter et sic [illegible] sunt [illegible] de forma sicut [illegible] et [illegible] unde [illegible] quia [illegible] mulier [illegible] generari nec ex [illegible] de [illegible] nomine domini [illegible] matris et [illegible] celebr[illegible] et [illegible] annulo et singulis [illegible] de [illegible] parte [illegible] Susanne [illegible] legitimatus [illegible]

[illegible] ut [illegible] proposito [illegible]

et quemlibet eorum insolidum ad manutenendum,
et ad summendum iudicium et deffensionem,
per dicta domina dorothea iuxta peticionem
suam victum victori in expensis condempnando.
Laus deo. Et ita vtriusque conclusus dico et consulo
iuris esse ego Antonius Tuluzius de Verono
legum doctor in cuius fide me propria manu
subscripsi et consueto sigillo sigilavi salvo semper etc.
[illegible]
[illegible]
locum tenente ipsi domino nostro locutenente
Briando pronuntiavit et declaravit prout in ipso
[illegible]
sententiam sic latam ~~dni francis~~ supplicati domini francisscus
de filiorum et Bastinus peurer supplicante ~~de~~ domine dorothee
[illegible] ~~appellatione~~ [illegible]
pro totum. Supplicatur vero per Nicholaus dela torre
[illegible] per procuratorem l. Antonio
Forzate et consortes. Dixit quod sententia lata contra ipsum in favorem
domine dorothee est nulla ipso iure quia fundata
super processu in nullo et actitato cum domino Johanne
de melso qui licet allegaverit se procuratorem ipsius
per Nicholai tamen minime est et fuit quod fuerit constitutus
[illegible] expressum
errorem dicta sententia et contra favorem iuris,
cum debuisset absolvi ipse per Nicholaus ab observatione
iudicii et [illegible]
no verdendo annullavit tamen sententiam quod processo
dicit quatenus aliquam esset [illegible] esse iniqua
et iniustam ac [illegible] iniqua et [illegible] et de
facto fulminata provocavit et appellavit etc. intendens
[illegible] in singratam

[illegible] testa xvi [illegible] uim [illegible]

[illegible] tigere debeamus in [illegible] [illegible]

[illegible] observantis [illegible] vero [illegible] inter. D

Hieronimum ex una et .D. Calisteam barbelinam ex altera super [illegible]

[illegible]

2. [illegible] donatoris [illegible] possim donat. [illegible] donatarius possessio.

[illegible] pro sua [illegible] reservationem [illegible]

[illegible]

3. [illegible] habere civilem possessionem [illegible] nancisci [illegible] pos.

[illegible]

5. [illegible] possideo [illegible]

7. [illegible] possit sua [illegible] poss.

[illegible]

[illegible]

·8·
[illegible] in dubio [illegible]

·9·
[illegible] possidet nomine alio [illegible] non dicitur possidere.

·10·
[illegible] non [illegible] ipse habeat.

·11·
[illegible] diversis [illegible]

·12·
Subrogatus sapit naturam eius in cuius locum subrogatur.

·13·
[illegible] allegatum.

[illegible]

[illegible] franciscus [illegible] cu vendramo
[illegible] occasione [illegible] eius uxori [illegible] sue
[illegible] pritorum [illegible]
[illegible] huzone
[illegible]
[illegible] esse cosso [illegible] possessioni [illegible]
[illegible]
alio possessorum [illegible]
padi sue possessorio [illegible]
[illegible]
[illegible] solutto. [illegible]
[illegible] exceptio [illegible]
[illegible]
consuetudini [illegible] possessorum [illegible]
[illegible] petitorio [illegible]
[illegible]
[illegible]

Officium iudicis [illegible] est ut dicit tex. in l. [illegible] ff. de iurisd. om.
iud. [illegible] [illegible] precedere in perquirendo et [illegible] veritatem
in quibuscumque causis per eum iudicandis [illegible] si non deff
[illegible] [illegible] per et [illegible] in casibus [illegible] periculu
animae [illegible] [illegible] [illegible] pro honoris et bonorum
conservatione versatur et evidenter imminet [illegible] et [illegible] hoc quilibet
bonus et sapiens iudex [illegible] [illegible] [illegible] de esse debet
quia ubi maius periculum [illegible] cautius est agendum [illegible] si iudex ex
officio suo et ex se perquirere et indagare veritatem facti tenetur.
quanto magis admittere debet partem et ei viam aperire quatenus
diante ad illius cognitionem pervenire valeat. Henricus [illegible]

Excell.me D. Vestre quam D. V. et sapienter ac iuridice processerit
ad sequestrationem Lucie filie q. Valorij del bien de Corbane-
sio destrictus Tarvij: tum pro habenda veritate matrimonij
per eam contracti [illegible] cum Leandramo filio Silvestri de roseo de
Ceneta, [illegible] vero cum Francisco [illegible] ac [illegible]: tum pro salute
animarum [illegible] et pro scandalis evitandis et idem Leandramus
suas produxerit positiones sub verbo et credulitatis iuramento de
quibus in processu: ex quarum responsionibus D. V. de veritate facti
optime se informare poterit, quia ex facto ius oritur ut dicit
tex. in l. ita vulneratus §. in clivo capitulino ff. ad l. aquil.
et sic postea sententiam veram et iuridicam proferre [illegible] [illegible]
frustratoria et vana fuisset sequestratio ipsius Lucie, que tamen
[illegible] invidia sed de iure necessaria fuit pro veritate habenda et pro
scandalis evitandis ut supra dictum est: [illegible] daretur materia
peccandi et maxime committendi adulterium et alia plura enormia
sequi possent que D. V. pro sua prudentia bene considerare
potest: et maxime si de iure cognitum fuisset eam fuisse et esse
veram et legitimam uxorem prefati Leandrami [illegible] futurum
[illegible] bona et [illegible] iustitia D. V. [illegible] propterea
[illegible] tenenda est in sequestratione donec [illegible] matrimonio
cognitum fuerit [illegible] suo legitimo marito [illegible] [illegible]

ditio meo aliter iudicari possit: videtur tamen parte [illegible]
cisa opponi positiones ipsas non esse admittendas [illegible] con
tra omnes iuris debitum: nam [illegible] ipse asserat spolia
tum sua asserta maritali possessione et [illegible]
bere sup possessorio vel etiam sup petitorio: [illegible] hoc a[illegible]
tate alienum est: [illegible] q[uia] essemus sive in ristam
in iudicio) in mero possessorio: et essemus in casu [illegible] haber[et]
posset consideratio ad solum possessorium: videtur positione
predicte de iure essent admittende: quia sic [illegible] in causa
possessorij tam actor quam reus probare possunt de eius [illegible]
et si franciscus actor probavit et suos testes examinari fecit
cur etiam hoc licere non debet, [illegible] reo: et reus non
debet esse deterioris conditionis quam sit actor, quia fa
vorabiliores debent esse rei, quam actores. vulg. reg. fa
vorabiliores [illegible] de reg. iur. [illegible] plus dixi [illegible] franciscum
tentatur [illegible] medium [illegible] reintegranda [illegible] q. iij. [illegible]
tam [illegible] unde vi sup violentia turbatione [illegible]
in casu nostro esse non potest stante auctoritate [illegible]
[illegible] in qua non cadit [illegible]
oppo. [illegible] seu violentie ut dicit glo. not. [illegible]
[illegible] quid de magistratu [illegible] d. l. si quis in tantam) [illegible]
positiones ipse non essent recipiende sed admittende de qua
materia videri potest alex. suis cons. 90. 91. et 92. 5. [illegible]
Preterea ipsemet franciscus deduxit et cumulavit petitorium [illegible]
possessoria; quod patet aperte tam ex forma et tenore petitionis [illegible]
deducitur tam [illegible] matrimonij, et modus ac tempus illius [illegible]
tenore [illegible] quare ordo et maior pars tori convenit petitorium
[illegible] possessorium, quia igitur [illegible]
sit petitorium et possessorium sup unoque iudicio [illegible]
di ponit alex. in suo cons. 76. incip. In causa et lite [illegible]
alberico [illegible] coll. [illegible] coll. allig. dec. [illegible]
[illegible] primo [illegible] de interdic. [illegible] in l. naturaliter [illegible]

ff. de act. [illegible] Jo. and. et alios canonistas in c. pastoralis de cau.
pos. et pprett. Ex quibus resultat indubitata [illegible] parem
v. torret esse in admittendo ipsas positiones et prefatum franciscum
tenere eis opponentem in expensis condemnari iuxta tex. in l. propera(n)
dum. §. sin autem alterutra. C. de iud. cum multis [illegible] plura alia adduci
possent que brevitatis causa omittuntur. quum maxime coram doc-
tissimo et sapientissimo Iudice causa agatur, et articulus sit quo agi
tur sit adeo claros [illegible] indubitabiles [illegible] potest
Laus omnipotenti deo.

Pr[illegible]. Simon Sarcenius. J. v. doctor minimus

R.[mi] et Ex.[mi] D.[ne] Judex. cum causa et lites vertantur inter magistrum paulum [illegible] [illegible] et [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
et pro sic deffendentem veniat. et sic terminanda et decidenda per R.[mam] V. Do.[minationem]
Justissimam pariter et expertissimam partis agendum est pro ordinando sine [illegible]
[illegible] [illegible] [illegible] [illegible] quo [illegible] [illegible] [illegible]
in causa [illegible] ex quo ex [illegible] [illegible] [illegible] [illegible]
videbis Immo spiritu nihil penitus esse quod faciam concludentes saltem
pro Intentione ipsorum arrendatorum si recte V. [illegible] D. more [illegible] et penet
[illegible] judiciorum [illegible] per ipsos arrendatores [illegible] [illegible]
[illegible] [illegible] et que [illegible] [illegible] per ipsos arrendatores [illegible] pro obti-
nendo victoriam super arrendationibus per eos propositis [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

Cum [illegible] [illegible] [illegible] [illegible] [illegible] paulum et [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
dictorum arrendatorum et quod hoc sit verum videantur tegmina et consideremus verba
de quibus in ipsis arrendationibus ex.[tis] in processu fo. [illegible] in fronte. Ibi [illegible] [illegible] [illegible]
[illegible] [illegible] pacifica et quieta possessione.

In qua quidem [illegible] [illegible] ipsi arrendatores [illegible] continuanter per [illegible] [illegible]
[illegible] [illegible] aliaque legittimas probationes quod ipsi arrendatores [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] possessione [illegible] [illegible] [illegible] [illegible]
mentiona in dictis eorum arrendationibus sine [illegible] absque eo quod dictus [illegible] Joannes
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
dicti arrendatores neque aliquis eorum ullo modo probavit neque probare de novo
possent, quia que non fuerunt nec sunt vera in facto non possunt
legittima probari [illegible] [illegible].

Cum immo non solum non probarunt ipsi arrendatores talia ad [illegible] [illegible] enim
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] ipsum quod Joannes in oppositionibus per ipsum factis
contra [illegible] [illegible] [illegible] [illegible] [illegible] adversariorum exa-
minatorum [illegible] hoc loco [illegible] per V. R. D. debere [illegible] [illegible] [illegible]
considerari. Quibus [illegible] nulli potest esse [illegible] quam [illegible] quod Joannes qui
[illegible] [illegible] [illegible] de debito juris et justitie [illegible] [illegible] [illegible]
cum [illegible] regula juris, quod [illegible] non probante sibi necessarium et in
[illegible] [illegible] si nihil [illegible] debet [illegible]

Et tanto magis idem q Jommes [illegible] suis [illegible] eius operarius [illegible] [illegible] suorum [illegible] et [illegible] abs [illegible] contentis in [illegible]
ex [illegible] terras et [illegible] [illegible]
possessiones suas in qua plures annos [illegible] adversariorum fuit [illegible]
[illegible] currus et terras [illegible] in [illegible] adversariorum ad terras suas in [illegible]
necessarijs dictis eius terris, et non solum probavit talem suam possessionem [illegible]
[illegible] depositionibus testium ad eius instantiam examinatorum verum etiam [illegible]
confessiones adversariorum [illegible] in diversis scripturis [illegible] adver[sariorum]
[illegible] in [illegible] et maxime in [illegible] die [illegible]
paulo post medium [illegible] [illegible]
[illegible] et [illegible] contenta [illegible] conformes [illegible]
[illegible] a collegio [illegible] qui pro tempore fuerunt [illegible]
[illegible] terras [illegible]

Et quod plus est idem q Jommes non solum probavit talem suam possessionem [illegible] simplici confessionem adversariorum ut [illegible] dictum verum etiam talem [illegible]
possessionem probavit [illegible] confessiones adversariorum [illegible] et conformes [illegible]
[illegible] ut [illegible] ex tenore [illegible] positionis [illegible]
[illegible] sub die 26 octobris 1548 que fuit [illegible] in [illegible] fo. 19 [illegible]

Nec [illegible] adversarij dicere q tales eorum confessiones debent intelligi [illegible]
conditionibus et modis de quibus in eis [illegible] q dictus q Jommes [illegible] terras [illegible]
[illegible] cum curribus et terras de quibus in [illegible] ad terras suas [illegible]
[illegible] conformes [illegible] et [illegible]
[illegible] accrescens quia [illegible] tales conditiones [illegible]
[illegible] et [illegible] in dictis eorum confessionibus non [illegible]
[illegible] possessionem eiusdem q Jommes, et [illegible]
[illegible] et [illegible] non [illegible] in aliquo [illegible] iuris [illegible]
[illegible] et tanto minus quia [illegible] nihil [illegible]
[illegible] tales eorum qualitates et conditiones [illegible]
[illegible] in dictis eorum confessionibus [illegible]
Jommes in suis [illegible] contra tales [illegible]
ad [illegible] q Jommes hoc loco [illegible]

Et q [illegible] conditiones et qualitates [illegible]
confessionibus eis non [illegible] in aliquo [illegible]
[illegible]

ipso ore confessi fuerunt d. marias matrem et [illegible] xxiii. [illegible]
[illegible] capitulis [illegible] Nos trolaos eorundem accusatos nullam penitus [illegible]
in conditione, ut qualitatem quam videntur [illegible] a collationibus
dictorum accusatorum per accusatores [illegible] receptas.

Nec obstat assertio contraria dictorum meri pauli et gregorii [illegible] quae [illegible]
contra eos retorquetur, ex quo per ipsam obiectionem demonstratur [illegible]
visus et introitus habitorum non fuisse facta ad locum eiusdem [illegible] famulis
ex quo in adversarij offerunt velle [illegible] talis introitus de nocte
et facilitas [illegible] faciendi talis introitus non fuit ad [illegible] et
[illegible] per ipsos intentatus [illegible] intentionis, sed [illegible] [illegible] [illegible]
[illegible] et [illegible] quod forsitan ipsi adversarij in futurum proponerent
intendunt [illegible] ipsius [illegible] famulas et eius matrem quod quidem [illegible]
fuerit [illegible] in esse non debet haberi in aliqua consideratione.

Ex quibus omnibus et singulis et causa [illegible] [illegible] famulas quas [illegible]
[illegible] fuisse in [illegible] [illegible] in [illegible] et
[illegible] sunt per [illegible] quae in [illegible] accusatorum in accusationibus
ipsis concludendum [illegible] est [illegible] [illegible] [illegible] [illegible]
et esse et absolvi debere ab [illegible] et singulis contentis in ipsis
accusationibus et ipsos accusatores [illegible] in [illegible] condemnari et
[illegible] debere [illegible] [illegible] [illegible] [illegible] famulas eos condemnari
[illegible] et [illegible] [illegible] [illegible] [illegible]

N causa et lite vertente inter [illegible] gregorium de spiriviis magistrum [illegible] barbitonsorem ex una agentes et [illegible] de vosiis [illegible] contra [illegible] de maria vxor [illegible] [illegible] sustinet [illegible] ditiam [illegible] defensionem in se occasione transitus cum plaustro facti per eorum [illegible] et ut in querella contra eadem [illegible] [illegible] [illegible] uibus agendo dicendum [illegible] [illegible] [illegible] condemnandum [illegible] [illegible] seu accusationem quia fundata est intentio [illegible] [illegible] [illegible] [illegible] [illegible] confitentes [illegible] [illegible] se ut in [illegible] que confessio in iudicio facta omnino [illegible] confitentem ut [illegible] [illegible] in l. unica C. de confess. confessos in iure pro iudicatis haberi placet et in l. i et l. certum ff. eo [illegible] [illegible] etiam iuris presumptione que est quod quelibet res presumitur libera l. altius et quod ibi not. glo. C. de servit. [illegible] [illegible] [illegible] in [illegible] [illegible] cuius [illegible] dispositio [illegible] [illegible] [illegible] [illegible] seu aliquem se habere ius eundi vel aliam servitutem per terram vel possessionem [illegible] [illegible] [illegible] [illegible] [illegible] servitute vel iure nisi [illegible] [illegible] per instrumentum [illegible] [illegible] [illegible] ius servitutem sibi vel constitutam [illegible] [illegible] a domino possessionis vel rei in qua [illegible] ius vel servitutem [illegible] [illegible] habere [illegible] [illegible] [illegible] per se vel [illegible] suos usus [illegible] continue per triginta annos et ultra dicta servitute vel iure [illegible] et iste est casus noster [illegible] [illegible] non [illegible] neque [illegible] aliquod instrumentum [illegible] [illegible] constitutio seu concessio alicuius servitutis [illegible] ergo non [illegible] fuisse satisfactum ipsi statuto et illius dispositioni quod quidem concordat cum dispositione iuris com. quia servitus [illegible] pactionibus stip[illegible] ulationibus aut ex testamento [illegible] si. [illegible] de serv. confirmat [illegible] premissa sententia arbitralis lata inter consortes a capite [illegible] [illegible] declaratur unumquemque eorum debere facere introitus super [illegible] [illegible] et sic non posse ire per fundum alienum que quidem sententia [illegible] non faciat mentionem de fundis querellantium [illegible] [illegible] [illegible] ipsi querellanti sine [illegible] [illegible] [illegible] eo [illegible] [illegible] [illegible] posse [illegible] per fundos querellantium cum eorum fundi sint [illegible] inter fundum [illegible] [illegible] [illegible] et fundos aliorum consortium a capite [illegible] et ita non potest fieri transitus per [illegible] [illegible] etiam per alium et iuris [illegible] [illegible] [illegible] [illegible] [illegible] alicui [illegible] interdictum ff. de itinere actuque priva. requiritur [illegible] [illegible] predium [illegible] servitutem et fundum vicini non sit aliud predium in medio per quod iri non possit ita not. dicit bart. [illegible] [illegible] [illegible] [illegible] in [illegible] col. [illegible] Nec ad premissa obstat [illegible] [illegible] facta parte [illegible] nomine [illegible] d. marie [illegible] iudicium [illegible] [illegible] [illegible] [illegible] dicit [illegible] et de [illegible] habere [illegible] [illegible] agendi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] per fundos ipsorum [illegible]

[illegible] seruij et Ex[illegible] orij

familie et [illegible] terre · [illegible] occidentem versus · [illegible]
[illegible] · et magis [illegible] ex ipsis [illegible]
ex processu colligit · et minus ab adversaria [illegible] · ut inferius demonstrant
Nam [illegible] et [illegible] servitus vie · vel eundi · sive [illegible] quedam habet
causam discontinuam · que non potest de iure [illegible] · nisi tanto tempore de
cuius initio non sit hominum memoria in contrarium · ut est · [illegible] · [illegible]
[illegible] et ibi bona glo · ff · de servi · [illegible] generali · que glo · dat [illegible]
[illegible] · [illegible] · et [illegible]
ipsius servitutis, cum patientia adversarij · quia tunc sufficeret [illegible]
[illegible] xx · [illegible] bar · in · d · l · et idem · tenet [illegible]
[illegible] tractatu de [illegible]
[illegible] quando constituatur servitus · ubi dat [illegible] · quod si [illegible]
servitutem [illegible] illud [illegible] non [illegible]
vel [illegible] adversario [illegible]
[illegible] · quia usus est servitute [illegible] domino sciente · et non [illegible]
[illegible] decem annos · vel · xx · si [illegible] · xx · [illegible]
[illegible] · nam tunc [illegible] servitus [illegible] ex causa · [illegible]
[illegible] · [illegible] patientia illa reputatur [illegible] traditione · [illegible]
[illegible] bar · in · l · quotiens · [illegible] · ff · de servi · quam quidem · [illegible]
[illegible] annorum · et minus possessione · annorum · x · [illegible] · et eo [illegible]
[illegible] adversario [illegible] nullibi [illegible]
Nec [illegible] iuribus [illegible] agentium obstat · id quod [illegible]
[illegible] · [illegible] confessionem [illegible]
confessi fuerit adversaria [illegible] possessione · eundi per [illegible]
[illegible] non potuisse [illegible] · quia hoc falsum in facto est · [illegible]
ipsis [illegible] semper [illegible] · marinum · [illegible]
[illegible] · quod [illegible] non [illegible] habuisse · seu habere [illegible]
[illegible] eundi · per fundos [illegible] agentium · et [illegible] · per [illegible] nisi iure
in eo casu · dicunt iuisse · et transitum fecisse · de [illegible]
[illegible] predicta [illegible] est · quod exceptionem obiciens regulariter [illegible]
de intentione adversarij confiteri · [illegible] · de reg · iur · [illegible] exceptione
[illegible] · [illegible] ex alio adversaria · ex ea non potest se fundare · [illegible]
[illegible] facta in exceptionem [illegible]
ex ea · condemnari potest · et hoc in civili actione · [illegible]
[illegible] tractatur [illegible] · Instit · de actio · § · item [illegible]
[illegible] est in actione criminali · et sic maleficiis [illegible]
non · potest dici habere · aliquam possessionem · saltem [illegible]
[illegible] incorporalia non possidentur · et minus [illegible]
[illegible] · Instit · de [illegible] · adversarios [illegible]
[illegible] iuisse [illegible] aliquas vices · etiam non [illegible]
gativa · attamen nullum ius possessionis · de iure dici posset [illegible]
[illegible] fuisse [illegible] et [illegible] in aliquibus casibus · quasi possessio

[illegible] actu Attamen nō [illegible] in [illegible] casu [illegible]
[illegible] quasi possessio q acquiritur de iure [illegible]
in se perpetuam causam. sicut est per immissionem tigni in [illegible]
[illegible] nā statim eo īmisso incipit possidere. per tex. in l. [illegible]
[illegible] ff. de ser. urb. pred. Item in alio. s. in casu aquam [illegible]
[illegible] sufficit probare quem fuisse semel usum. l. [illegible]
autem. ff. de aqua coti. et esti. [illegible]
ad acquirend. quasi possessionem sufficit unicus actus. uel triius [illegible]
[illegible] de caus. pos. et ppri. et idem [illegible] in [illegible]
[illegible] actum. et optime ad [illegible]
[illegible] n precio. c. cum ecclesia. qui dicit esse alios actus q[illegible]
[illegible] ratione Amicitie. et cuiusdam [illegible] non tamen multum [illegible]
[illegible]. et tunc non sufficit [illegible]
[illegible] uerum fuisse [illegible]
[illegible] q ad acquirendam quasi possessionem [illegible]
[illegible] nō sufficit [illegible]
q usus [illegible]
[illegible] in d. suo tractatu. de servi. rust. pred. [illegible] col. [illegible]
dicit q ad hoc ut alicui competat interdictū ff. de iti. act. [illegible]
quiritur. q ille qui facit usus. q hoc Anno et saltem [illegible]
fuerit [illegible] et ibi et [illegible] uerba pdicta [illegible]
in quasi possessione dicte [illegible] requiritur aliud. quia [illegible]
rer corporalium. et alia rer incorporalium [illegible]
ssio [illegible] i rebus corporalibus operatur et est istius nature [illegible]
periatur possessor alicuius rei. ut puta domus. agri. et similium nō [illegible]
opus ipsi possessori aliter docere de titulo sue possessionis [illegible]
[illegible] sed possessio [illegible] remanet [illegible]
[illegible] et nisi agens probauerit. qd intendit dominium [illegible]
[illegible] possidentem tex. [illegible]
rei uendica. iuncto tex. in l. rei alienas. C. eo ti. et [illegible]
[illegible] non [illegible]
[illegible]
[illegible] sed possessio. uel quasi acquisita in rebus incorporalibus [illegible]
[illegible]
[illegible] sed ultra eam requiritur. q possessor ostendat [illegible]
[illegible]
[illegible]
[illegible] de servi. rusti. pred. [illegible]
[illegible]
[illegible]
servi [illegible]

[illegible]

nomine [illegible] [illegible]

[illegible] et [illegible] respondit [illegible]

[illegible] et [illegible] sicut [illegible]

[illegible] et [illegible]

[illegible] lunctis [illegible] et [illegible]

[illegible] ipsi [illegible] competere [illegible]

[illegible] tamen negatur non [illegible] ipsi [illegible]

[illegible] operario licuit [illegible] transitum [illegible]

[illegible] loco [illegible]

[illegible] locum ipsius [illegible] quem [illegible] non deponit [illegible]

[illegible] ipse [illegible] qui videtur [illegible]

[illegible] fundos [illegible]

iuris est [illegible] aliquis [illegible] debet [illegible] civili modo [illegible]

[illegible] vicinus sentit minus damnum. l. sicut [illegible]

[illegible] communiter [illegible] doctores, unde ex [illegible] iudicium

[illegible] debet perdere cum [illegible]

[illegible]

[illegible]

[illegible] in [illegible]

[illegible] iure [illegible]

[illegible]

naue [illegible] utraq parte [illegible] [illegible] cons [illegible] questa antiquo [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] conto [illegible] in [illegible] occasio [illegible] materia [illegible]

[illegible]

[illegible] [illegible] [illegible] kalendas [illegible] [illegible]

curam [illegible] longas [illegible] [illegible] antiqua [illegible] arbitraria alias [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] duo [illegible] [illegible] no [illegible] [illegible] C. [illegible] appel.
[illegible] [illegible] [illegible] [illegible] [illegible] in hoc casu [illegible] obscure [illegible] minus [illegible]
[illegible] [illegible] [illegible] contra [illegible] illa adeo [illegible] minime [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] maior neutra pre [illegible] [illegible] [illegible] non [illegible] sententiam [illegible]
[illegible] [illegible] ex qua [illegible] [illegible] non possit [illegible] duo [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ubi [illegible] [illegible]

[illegible] contra [illegible] anno [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] can. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] maior [illegible] a latere [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
numero [illegible] [illegible] [illegible] [illegible] [illegible] maxime [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] numerus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] maioris [illegible] [illegible]

Queritur quis sit in possessione terrarum de quibus in precepto an D. Hieronimus assertus donatarius, an vero D. Galiopa Herris scripta in testamento q. R.di D. Marci Saracinelli, cum quilibet ipsorum affirmet possidere, et absurdum sit eadem possessione duo possideant eandem rem in solidum eodem tempore, D. Hier. Saracinellus alligat assertam suam donationem que habet clausulam precarij, ex qua clausula dicit possidere maxime a tempore mortis q. R.di D. Marci citra, item ipsa donatio concedit electionem bonorum eidem donatario, quatenus ipse donator bona non consignaverit pro summa contenta in ipso donationis instrumento, et cum D. Marcus decesserit non facta consignatione aliqua, dicere videtur se esse in casu eligendi, quinimo iam elegisse vivente adhuc ipso D. Marco donante, et quidem authoritate iudicis elegisse, et bona per ipsum electa fuisse estimata similiter de mandato iudicis per estimato-

res

ris comunis, tres sunt que alligat [...]
tiores pro tuenda possessione [...]
sua, que quidem non probant poss
sionem; et non sunt efficatia, ut [...]
eis quis possit dici possidere, ut [...]
bit ex infra scriptis, primo sciendum [...]
quod tempore dicte donationis et [...]
stituti q. R. dus D. Marcus non possidebat
ista predia, quinimo constat ex lectur[a]
ipsius donationis [...] eo tunc morabat[ur]
in fraterna cum ipso donatario [...]
teris ipsorum fratribus, quo casu per
clausulam precarij possessio non trasfer[...]
tur glo. [...] in l. quamvis §. [...]
conducier. de acquir. posses. Alex[...]
consi. x. iiij parte. Bart. et Ang. in
l. quedam et ibi not. ff. de rei vendic.
Sed neque predia ista obvenerunt in portio-
nem prefati q. R. D. Marci, quinim[o]
neque erant ipsorum fratrum, quia ulter[ius]
[...] ipse q. R. D. Marcus [...] pars
post divisionem portionem eius [...] in divi
sionem obventam permutavit cum D. Sa[...]
bino eius fratre, predia ista satis post

diuisionis eius et acquisiuit à diuersis personis, unde tempore constituti neque pro parte illa possidebat, sed ista clausula quam nomine constituti possidere neque transfert possessionem in predio et aliis rebus stabilibus si alie sunt, sed operatur in rebus mobilibus tantum secundum Bald in l. .. in i. col. Co. de suf. et in specie in casu nostro pulcre Ang. in l. quisquis C. de donat. et Bald. in c. i. quid .. inuestitu. Constat igitur in casu nostro nullam possessionem fore translatam per dictam allegatam donationem, et hec predicta procedunt quando donatio esset efficax et uera, cum uero sit ex causa falsa et non uera, sed ficta et simulata, prout coram iudice iam plurius dictum fuit et scriptum parte dicti heredis, tanto minus est dubitandum per do. Bald. in l. iij in ult. q°. C. plus ualere quod agitur. Quo uero ad alectionem concessam ipsi donatario casu quo ipse q. D. Marcus non consignas-

[margin: ... falsa ... non transfert.]

set, ista concernunt dominiū atq proprietatem non vero possessionem, et frustra allegatur ab ipso donatario cum nihil cōmune habeat proprietatem cum possessione, prout in iure nō ambigitur ex cōtra dispositione legis, quādo etiā tractaretur de proprietate clare probante dicta heres, adhuc esse in casu ut possit consignare, quādo donatio teneret et esset valida quod semper negamus, et negat ipsa d. Caliopea, et qs [illegible] heres representet personam defuncti, sed qa tempus instat et hec ad rem nō faciunt ideo omitto, et venio ad electionem cum iudicis authoritate factam et astimationem subsecutā de iudicis mandato, et ad hec dico quod sunt ipso iure nulla acta et agitata parte absente nō citata et minus admonita, et extra tempus facta, et plura dicerem iuraq3 allegarem si cum parte ipsius d. Caliopee heredis testamentarie super dicta nullitate in ceptum fuerit iudiciū et per ipsum Hieronymum donatariū fuerit lis con-

testatis, quamvis iure aliquo ipsa acta su-
stinerit vel posset, cum vero his p...deat super nullitate illorum non debere
haberi in aliqua consideratione, et non
meruerunt allegari, sed neque alia ista
verba faciunt de possessione, cum igitur
neque possessio civilis neque naturalis
saltem iusta nec vera sit apud ipsum
D. Hieronymum, frustra contendit cum
ipsa D. Calliopea herede possidente
civiliter, naturaliter, vere et iuste
predia ipsa, et quamvis non esset ei
onus probare suam possessionem, cum
satis sit ostendere ipsum D. Hieronymum
non possidere, attamen comprobando
suam veram et iustam possessionem alle
gat sententiam M.ci D. P. Servavalli
qua declaratum fuit ipsam D. Calliopeam
heredem inducendam esse in tenutam et
corporalem possessionem omnium et sin
gulorum bonorum, que tenebat vel pos
sidebat q. R.dus D. Marcus testator, que
quidem sententia lata fuit in contradicto
rio iuditio cum ipso D. Hiero. et fra...

et in executione statuti super inde dispositi
et uirtute dicte sententie nostre cum
dictione ipsius M. Hieronymi et fratrum ipsius
D. Caliope fuit inducta in possessionem
principue dictorum prediorum, ideo ipsa
sibi cum auctore iudicis possidens
et uere possidet cum fructus percepit
ex dictis prediis, que predia etiam se-
minari fecit arando, et alia faciendo
que ad ueram et legitimam pertinent
possessionem, et hec ostendunt et pro-
bant possessionem, Bart. in l. ij. C. de
acqu. poss. Bald. in § i. in ult.
col. C. de ser. fug. doc. in l. ij.
C. si regun. Bar. et doc. et
principue Alex. in l. stipulan. ij.
§ hoc quoque ff. de uer. oblig. cum
simi. et ex his constat ipsam D.
pram uere et legitime possidere, ac etiam
statutum contra cum statuto seruandum
conforme, et alia multa omitto pro
state temporis, et que essent superflua
in casu isto in iure non arbig...
Quare iure merito impetratum

Propria parte Ffaci D. Calispee
pro conservand. possessione sua vera
et legitima contra ipsum temerarie
D. thier. querentem propria autho-
ritate occupare dictam possessionem,
et quod iudice authore consequi ne-
quiuit, sua temeritate percipere,
Quod quidem recepturum venit laudari
cum expensis,

pdudz rie ig men aug. 157.

In questione vir Nobilis Ser Vicard Ultino pro se et fratre suo intentata contra dominam Thomasiam uxorem suam et contra multa dubia per V. R. sunt porrecta contra dictum Ser Vicardum ad excludendum ipsum ab intentione sua obtinere seu defendere intente quandam domum tamquam heredi iure ad se spectantem vigore etiam emptionis per publicum instrumentum facte per eius patrem suum necnon similiter volentem defendere dictum quendam collem per ipsum Ser Vicardum et fratrem suum separati et sic publice intentum. Et adversus dictas emptiones seu acquisitiones per V. R. inducuntur multa argumenta suadentia simulationem et fictionem dictorum contractuum ex quibus infertur dicta dubia circa dictam domum et dictum collem tamquam de bonis dicte Zane legitime intromissum seu ipsi domine Thomasie ex primo decreto assignatum et executione etiam sue sententie et denique contra certa bona possessionis de pauca. Multa et dubia per V. R. allegantur suadentia per constitutum patrie per quam effectualiter dotes filiis reservantur dotes tres non firmari ... post mortem dicte domine Zane contingere etc. Ad ipsa breviter respondetur non instamus circa declarationem allegate simulationis seu fictionis circa duo prima bona nec circa instituti allegate constitutionis circa tertium bonum quia ut ex infra dicendis patebit huiusmodi investigatio non est necessaria. Cum per aliam viam necessario sit pronunciandum ad eventum dictis dubitationibus ... Dico quod cum per R. V. inductis dubiis ... et sic est verum quod dicta domina Zana habet duas possessiones sufficientes ad eius debitum ut patet ex inventario suo producto dicentes lxx et lxxj. de quibus nulla mota est controversia indubitanter cassata dicta intromissione seu tenuta seu missione. Et primo

[illegible] [illegible] veditioni [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] et [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] et [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] quod et sine
[illegible] capietur [illegible] iudex proposito e necessario
[illegible] non [illegible] [illegible] revocationem
[illegible] in dubio [illegible] [illegible] liber. procla.
non licet. l. in [illegible] [illegible] sunt [illegible] sed et
[illegible] publicis emptiones [illegible] ab indubio [illegible]
C. de probat. cum precibus

Item constat dictum Sr Vicardum [illegible] fuerit esse in
possessione nomine suo p[illegible] domus [illegible] collis que pos
sessio [illegible] in A [illegible] sufficiente [illegible]
presumptionem [illegible] de rei ven. l. fi. ff. de
adi. [illegible] l. [illegible] C. de edi. divi
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] exemplo nono [illegible] ad possessionem dicte
domus ubi [illegible] [illegible] Thomasie cap
[illegible] [illegible] Johannes olim pater dicto
Vicardi [illegible] fratris tenuit inter cetera dictam domum
per xii annos [illegible] [illegible] in suos usus

conuertendo. Per que quidem modum probatur que ee possessorem. ff. de solu. tria. 7. C. de agri. 7 cen. libro xi.
7 p bar. in l. ...
no ipm Collem probat ad ...
limitum 7 quedam dnicaz zudiam laboratores da Collis
Sponentes apte d possessione domum fratrum. Unde ...
... R. ...
expedita 7 sufficientia ad dominum ubitum e totaliter ex
... 7 illud. Ad quod 7
facit qd' no. p bal. C. d bo. auc iu. pos. aut ei qui.
Item moueor alio argumento p ea q no. bar. i dco §.
Si sup rebus. ibi mo formo tibi una questionem ubi
tenet expresse q ille qui uenit ad contradicendum dicte
Intromissioni ... possidere dicto p actore
probaret debitorem suum ... illaz dolo desiisse possidere
p hoc no pot repellere ipm contradictorem et si nulla alia
tpris bona expedita constarent 7 mouet p totum. ti. ff.
7 C. d' hijs que i fraudem ... Insti. d' actio § ...
... i fraudem ubi habetur q dolo seu fraude ...
simulatione i factione ptensa comissa p debitorem
transferendo bona sua i aliu possessorem no tn ipse possessor
pot conueniri nisi p ... excussis bonis debitoris
... ypothecaria ...
... hijs q i fraudem ... ubi aut ut si prius
dictum est ... oppositum uz ... debitore ...
alia bona sufficientia. Unde psupposita et constanti

[illegible]

[illegible] Thomasia. Est enim p[re]dicta[illegible]

sententiam declaratam [illegible] esse [illegible]

[illegible]

[illegible] q[uod] debitu[m] h[e]r[e]dita

rium ipsius [illegible] Johannis [illegible] p[re]ferendum e[st] o[mn]ib[us] debit[is]

[illegible] p[er] ipsam [illegible] heredem suam [illegible]

[illegible] Johannis [illegible] p[ro]ut [con]stat fuisse d[i]c[t]am possessionem

de Parma [illegible] de sep[illegible] [illegible] Inn. pos.

[illegible] Nec ob[stat] q[uod] alleg[atur] d[i]c[t]am summam p[ro]ducta[m]

[illegible] p[ost] [con]clusionem i[n] causa et sic admitti no[n] debere

p[er] ea q[uae] h[abe]ntur ex [illegible] fide instru[menti] [illegible] Nam

[illegible] post [con]clusione[m] i[n] causa [illegible] ipsis creditoribus

[illegible] sententiam [illegible] ad p[ro]ducendum

[illegible] admitti p[er] tex[tum] [illegible] de exce[ptionibus] [illegible] Item

[illegible]

sm determinationem. Jo. multu notabilis i ete
Sept. §. et quia sup v°. Non ol [illegible]
[illegible] finit [illegible]
[illegible] p pacto
[illegible] puta q
[illegible]
[illegible]
one .xxxij. [illegible]

Non ob[stan]t[e] [illegible] d[ic]ebat[ur] [illegible] omem equitatem [illegible]
q[uod] d[ic]ta d[omi]na Thomasia h[abe]re no[n] debeat fulcimeta
sibi p[ro]missa, nec ex bonis p[at]ris nec mat[er]nis [illegible]
[illegible] q[uod] nulla equitas hec induc[er]et [illegible] fices
sui qui p[re]tendunt tam onerosam [illegible]
exbursatis [illegible] hered[itat]e
[illegible] tantum p[ro]pon[er]e debeat [illegible]
Thomasie p[re]tendunt [illegible] lucratiuam
[illegible] d[ic]ta p[ar]aferna [illegible] dotes vel fulcimenta
p[ro]mitti p[ossu]nt nisi soluto ere aliene. C. de [illegible]
[illegible] ult. [illegible] ne apparet [illegible]
d[omi]na Thomasia [illegible] exceptione aliqua [illegible]
[illegible] p[at]ernam [illegible] fices [illegible]
inuentarij dicu[n]t[ur] esse [illegible] credita, q[ui]b[us] d[ic]te d. thomasie
[illegible] satisfieri. Et dato [illegible]
[illegible] suffi[cie]nt[e]s ad soluend[um] d[ic]ta fulcimenta
no[n] e[st] pec[ca]tum mortale [illegible] desu[n]t p[ossu]nt dispone[re] [illegible]
[illegible] suaz excludunt [illegible]
[illegible] §. [illegible] i offi. [illegible]
ut p[re]dicit[ur] ipi fices de suo exbursauerit, ipa v[er]o de suo
nichil exposuit, et [illegible] suaz e[st] sufficie[n]t[er] dotata.

Cet[er]a suppleat [illegible]

[illegible]

[illegible]

[illegible] Caesarac[illegible] sine [illegible] et possessionis iure heredit[illegible]
et her[illegible]

Quoniam clarum et in iure determinatum est R.mae Dni
(meliori) Vir.te sine minorum stabilia distrahi vel alienari ne
posse nisi nisi intervenire omnes solemnitates intervenerint
vz. ut fiat de iussu et praesentia tutoris vel curatoris
alienationes ipsa, item et urgenti necessitate causae alieni
persolvendi, item quod venditiones et alienationes eodem modo
in inventario, iterum etiam in evidentissimam utilitatem ipsorum
minorum et in ea pretium convertatur, item quod non adsit
aliqua mobilia, aut commode vendi vel alienari pos
sint, item quod in contractu alienationis debent fieri subha
stationes et publici incantus, item quod plures oblatoribus pu
blice deliberentur, item quod creditores sint praesentes et pre
tium recipiant, item quod summa omnia perdant quae
mole liberi, et cum praesentia Dni iudicis qui super
praemissis adhibere debet cognitionem requisitam et sua
et iuris auctoritatem interponere, et iudicialiter decretum
hoc habeantur, ut notatur in L. i. ij iij iiij. C. de
auctori. praestan. L. ob aes et L. minoris ac L. i. ij
C. de praed. mi. non alienandis et L. lex quae tuto.
C. de admini. tut. Quae omnia superius si ad conclu-
dendam alienationem bonorum stabilium minorum requirantur
sunt, et tenetur quod uno sine deficiente contractus invalidus
nullus, et nullius efficaciae ac obligationis esse censeatur
ut est tex. et glo. in L. i. §. si et alium et. L.
magis puto §. non passim ff de reb. eo. qui sub tu-
tela vel cura sunt. Quomodo et qualiter poterit Dnus
pater Gerardus de Seraniello certiore effecti nullus et in

a m quo nulla est ipsis solemnitatibus mancans

nullidi contractus venditionis ..... et immobilis ardenum [illegible] ipsorum hereditatem bonorum detinentem cum id fuerit ab Imperatore prohibitum ff. L. ad vellejanum. C. de predi minorum [illegible] sup eo sunt similia que a initium [illegible] a [illegible] nullis sunt sunt aliquo subsistere possit minime certe cum similiter fundata sup contractu nullo et eo cum [illegible] ordinationem nulla sit et [illegible] ille [illegible] rescindendo veniunt. L. si [illegible] ff. de appellatione cum similibus. Ex quibus dicta et ponimus sententiam veniunt [illegible] fructibus et [illegible] adducta parte ipsius Domini Gerardi et [illegible] [illegible] ipsorum heredum facta et [illegible] ut in [illegible] et sic fieri et [illegible] [illegible] cum [illegible] continue de expensis [illegible] et [illegible]

terminanda foret p judicē sufficientē separare lepram a lepra forte exclamatio [illegible] monesterio potuissent casū dubiū reddere, [illegible] a colūmatissimo et integerrimo Judice causa ista decidenda est, nō est dubi. quominus pronūciacō [illegible] in fauorē Cypriani q. [illegible] Triccesimo qui optime Intentione suā p̄bauit [illegible] ultimo loco p testes [illegible] examinatos [illegible]

[illegible]

[illegible]

teste [illegible]

[illegible]

[illegible] qui testes [illegible] cōcordes reddunt [illegible] suspectū et eius fidem annihilāt, not. glo. [illegible] Jn. l. [illegible]

[illegible]

[illegible]

[illegible]

[illegible] 340

Incip. Circa primum [illegible]

Pet. d Ancha. Jn q° 207. Incip. sup p°. [illegible] quarto, in multis aliis simile In ista materia [illegible]. Et hoc [illegible]

nō remanent tot testes firmi qui ei nō contradicant quot ad ualiditatē [illegible] Instrumenti sufficiant [illegible] tot remanerent firmi, na[illegible]

nō [illegible]

[illegible] quis neget [illegible]

Et dictum aliorum testium examinatorum [illegible] circa hoc factum deponant, in hore duorum [illegible]

[illegible] posset p aduersarios [illegible] ad dictum [illegible]

fuisse [illegible]

cōtra omnē caritatē et pius oppm diceret neccare Iux. no. In neccare et
[illegible] condā [illegible] [illegible]
cōstituti ē anno. 1503. in quo fundatum ē [illegible] anni. 1519. ad hoc etiam
accedat q qn agit̃ causa eccli̇e cū pciuari fideli potius eqn
ē attendendus. c. ij. ex. de iur. calū. c. dilecti. ex. de iudi. ubi glo. [illegible]
[illegible] nominatur col. 2. [illegible] I. de uer. obliga. etc. Sequit̃ ergo attētis
declarari nō posse nisi ad fauorē dn̄i Cypriani qui optime sibi [illegible]
bentia pbauit etc. Laus deo. etc.

[illegible] parietes finibus . in sum fuit . dic
no [illegible] domini . quadam assertione ex [illegible] estimis
qua [illegible] [illegible] [illegible] confessi [illegible]
[illegible] [illegible] [illegible] cuius prouincia [illegible]
commissa . Cum iuramento [illegible] [illegible]
[illegible] in causa [illegible] modo [illegible] confessi [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] aliquando [illegible] illa [illegible]
[illegible] quo [illegible] ff. [illegible] in aliquo [illegible]
[illegible] [illegible] minus [illegible]
[illegible] iuris similis [illegible]
[illegible] [illegible] probare [illegible] dominum
l. [illegible] [illegible]
C. de rei uend. [illegible] l. si [illegible] [illegible] [illegible]
ff. de acqui. re. domi. [illegible] glo. in [illegible] predia [illegible] [illegible]
in uerb facit limitat [illegible] [illegible] [illegible]
solutio esset [illegible] [illegible] omnis [illegible] iudicium [illegible]
vel ei ad que res pertinet . si sciat et patiatur . communis
[illegible] in contrarium . quia simplex patientia
[illegible] [illegible] [illegible] non est causa [illegible]
dominium quod esset magni preiudicii [illegible] ad [illegible]
[illegible] iudicij bone [illegible] noceret sicut [illegible] [illegible]
in . l. [illegible] [illegible] [illegible] [illegible] sicut [illegible]
[illegible] apud Bar. in . l. de in rem uer. ff. de usur. et [illegible]
[illegible] cum [illegible] in [illegible] processu [illegible] fuisse [illegible]
aliquod ius dominij [illegible] q. [illegible] [illegible]
superius [illegible] ac etiam in processu aliquis quod [illegible] etiam
si in aliqua illius [illegible] [illegible] quod negatur ad tunc
ipsa [illegible] succumberet [illegible] [illegible] [illegible] obstet
sicut ex processu [illegible] et oppositum fuit et sic [illegible]
[illegible] d. [illegible] [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
probante [illegible] [illegible] [illegible] . Actore non
accusante . C. de edendo . [illegible] absolui debet . l. qui

Redem [illegible] noie [illegible] lite vertentis et que vertia [illegible]
[illegible] natum balianu conuentu ex una actorem et [illegible] nico [illegible]
plantinum ex alia reum conuentum [illegible] q tamen fuer anni [illegible]
uel circa q dum [illegible] Joannes Don[illegible] balianu rogasse [illegible] nico [illegible]
antedictum ad ferrendum [illegible] certam quantitatem panni albi ut eum
t[illegible] [illegible] coloris pauonazii qui quidem [illegible] nicolaus [illegible]
[illegible] precibus eiusdem [illegible] donati libenter et [illegible] ita [illegible] mercedis
[illegible] predictum acceptauit ac pannum ipsum [illegible] tinctori sicut
[illegible] admodum tinctum [illegible] et [illegible] nunc uero dictus agens
asserit adhuc pannum ipsum non recepisse a [illegible]
[illegible] uersus uersam in [illegible] uocauit [illegible] cum [illegible] ad [illegible]
[illegible] lex [illegible] et ut in [illegible] petitione eiusdem [illegible] panni [illegible]
[illegible] modo [illegible] partium fouere iustam causam et [illegible]
facere [illegible] ipm [illegible] de [illegible] pano [illegible]
nem, quia [illegible] pertinenti [illegible] se non decorat, ut [illegible]
ff. de reg. iur. [illegible] nemo debet [illegible]
negotia aliena [illegible] contrarium [illegible] equiorem [illegible] quimmo
hominem [illegible] officii [illegible] ff de [illegible]
[illegible] ex quibus [illegible] ad [illegible] agentem debere [illegible]
monere litem eidem [illegible] circa [illegible] panni [illegible]
liberationem et [illegible] gratis gesto in [illegible] uenit [illegible]
non est dubium [illegible] colligi [illegible]
[illegible] et [illegible] ab [illegible] panni [illegible]
contra [illegible] nicolaum ficta [illegible]
[illegible] confessus est dedisse eidem [illegible] pann[illegible]
ex qua quidem confessione [illegible] nicolaus [illegible]
causam quare habuit pannum ipsum [illegible] et [illegible]
melior [illegible] partis confessio [illegible] in iud[illegible] confessus in [illegible]
[illegible] iudicato habetur [illegible] de confess. [illegible]
[illegible] ex [illegible] nicolaum [illegible] ipsi [illegible]
[illegible] Joannis [illegible] in presenti causa se [illegible] predictum [illegible]
capitulis quibus continetur [illegible] nicolaum promisisse restituere pannum [illegible]
[illegible] ut uideri potest ex [illegible] nullum [illegible]
[illegible] eidem [illegible] iuris [illegible] actore non [illegible] reus absolui [illegible]
qui accusare [illegible] non [illegible]
[illegible] nicolaum [illegible] ad ferrendum
pannum ipsum [illegible] periculum [illegible]
[illegible] ipm [illegible] dominum [illegible] quamuis [illegible]
[illegible] cum tantum [illegible] de periculo rei qui [illegible]
qui mercedem [illegible] ff. loc. et [illegible] commodum [illegible] lucri
[illegible] ff. [illegible] fur. [illegible]

Not[illegible] ad [illegible] [illegible] [illegible]
[illegible] decere, quia ex eis nullum inf[illegible]
deponentes quinimo potius [illegible] favorem [illegible]
[illegible] et expresso [illegible]
ipse [illegible] depon[illegible]
[illegible] ad instantiam cuius [illegible]
[illegible] 2° [illegible] [illegible] vel similia verba [illegible]
dito che [illegible] [illegible] che [illegible]
a Venetia [illegible] deponit [illegible] uxor [illegible]
[illegible] [illegible] testis examinati in presenti causa [illegible]
[illegible] [illegible] Johannis [illegible] cuius maritus [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
cognoscere tinctorem [illegible] post interrogatus [illegible] positionem [illegible]
per [illegible] [illegible] continebatur [illegible] Johannes donati [illegible]
[illegible] dicit [illegible] [illegible] [illegible] [illegible] dixit [illegible]
[illegible] ipsius positionis contineri hoc adversario [illegible]
[illegible] [illegible] testis deposuit ad eiusdem Jo. donati favorem cum [illegible]
[illegible] [illegible] tinctore qui ipse testis dixit [illegible]
[illegible] [illegible] [illegible] respondetur hoc non esse in preiudicium eiusdem [illegible]
cum [illegible] cuius depositio in dicta parte non valeat cum deposuerit [illegible]
[illegible] ex [illegible] fuit quia fuit interrogatus et sic non iuratus [illegible]
tex. cum [illegible] in c. de testibus ex. de test. quem sequitur doct. [illegible]
[illegible] [illegible] [illegible] [illegible] in forma [illegible] testium [illegible]
[illegible] qui plene examinat hunc articulum et si respondeatur [illegible]
[illegible] non posse neque debere admitti ad opponendum contra suos [illegible]
per se inductos et examinatos in presenti causa [illegible] vulgare [illegible]
[illegible] [illegible] non [illegible] dicunt habere locum quando opponeret [illegible]
personas ipsorum testium [illegible] quando opponitur contra [illegible] dicta
[illegible] [illegible] [illegible] concordiam glo. est [illegible]
[illegible] singularis [illegible] c. presentium in verb. significasti de testi. [illegible]
[illegible] ex quibus omnibus cum ipse [illegible] habeat intentionem [illegible]
fundatam tam ex eo quia [illegible] ipse non [illegible] contentum [illegible] cuius [illegible]
[illegible] testes [illegible] deposuerunt literas ipsas fuisse [illegible]
[illegible] [illegible] [illegible] quia et fuit lator ipsarum et [illegible]
[illegible] [illegible] in secunda [illegible] literarum per eundem [illegible]
[illegible] in quibus [illegible] [illegible] pano [illegible] quidem [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] favorem eiusdem [illegible] [illegible] indistincte et [illegible]
[illegible] [illegible] ad adversario [illegible] [illegible] de [illegible]
[illegible] [illegible] in glo. in illis passibus [illegible] [illegible] est ad [illegible]

[illegible] [illegible] dictum est [illegible] iuris [illegible]
Ego franciscus de alexiis [illegible] [illegible]
[illegible] [illegible] ad quod [illegible] [illegible]

in causa [illegible] [illegible] vertitur inter Marcum [illegible]
[illegible] et D. [illegible] circa [illegible] ex contra [illegible]
[illegible] attento [illegible] causa [illegible] sit committenda [illegible]
[illegible] iuxta dispositionem [illegible] vel [illegible] [illegible]
[illegible] brevibus [illegible] [illegible] et [illegible] tantum [illegible]
fore [illegible] committenda consilio sapienti [illegible] [illegible]
[illegible] in [illegible] [illegible] quia [illegible] sunt [illegible]
[illegible] Bar. in l. [illegible] C. de [illegible] et [illegible]
fili. etiam in fine [illegible] per [illegible] in l. [illegible]
in [illegible] col. in vers. [illegible] C. unde [illegible] et ma[illegible]
[illegible] R.^mi D. [illegible] per [illegible] D. Cosma [illegible]
[illegible] [illegible] observare [illegible], [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] C. [illegible] [illegible]
[illegible] per D. Valentinum [illegible] [illegible]
[illegible], quia causa non expedit [illegible] [illegible]
[illegible] quia [illegible] dicta [illegible] maxi [illegible]
[illegible] [illegible] [illegible] iure [illegible] [illegible]
[illegible] servitute [illegible] non possit [illegible] [illegible]
[illegible] [illegible] et quia [illegible] [illegible] [illegible]
de [illegible] moderamine et arbitrio l. [illegible] C. [illegible]
et [illegible] [illegible] in [illegible] mandata C. mandati et [illegible]
[illegible] in [illegible] quicquid ei placuerit dummodo [illegible] [illegible]
[illegible] [illegible] [illegible] l. [illegible] C. de servit. [illegible]
Bar. [illegible] [illegible] in l. [illegible] in tracta. servit. de [illegible]
urban. [illegible] et l. [illegible] ff. de servit. urba. praedi. [illegible]
[illegible] murus dividens [illegible] [illegible] [illegible] D. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

caveat et nil aliud habeat in bonis quam decem et [illegible]
cuius pervenit et causa magna et parva iudicatur [illegible]
[illegible] [illegible] ut causa decem librarum [illegible] est causa
magna ut causa centum ducatorum esset [illegible]
ut per Bar. in l. admonendi ff. de iureiur. quem sequitur [illegible]
de [illegible] in [illegible] circa secundam partem in tertia col. et Alex.
[illegible] in [illegible] in ea [illegible] maxime et tal. in [illegible]
[illegible] in [illegible] [illegible] in ii lect. dicit [illegible]
[illegible] [illegible] [illegible] et [illegible]
et sequitur glo. fi. in l. [illegible] C. de iureiur. [illegible]
fi. in c. [illegible] extra de iureiur. [illegible] quamlibet [illegible]
[illegible] dicta causa [illegible] [illegible] non [illegible]
[illegible] [illegible] librarum [illegible]
[illegible] [illegible] [illegible] R. D. V. [illegible]
[illegible] et [illegible]
[illegible] [illegible]
[illegible] [illegible] et [illegible]

Orta est difficultas cuiusdam articuli emergentis in lite que vertitur
inter excell. d. Alexandrum gratianum ex una parte agentem et
[illegible] de cerado ex altera parte reum [illegible] pendentis [illegible] d.
Alex. [illegible] vindicare ab ipso [illegible] quandam domum positam
sub platea [illegible] vocata la casa [illegible] quam dicitus [illegible] victor
[illegible] et aquisivit a q. d. [illegible] de gratianis patruo pre
fati d. alexandri actoris. produxit [illegible] d. alex.
in iud. libellum in [illegible] [illegible] victorem reum ad
dimittendum et relaxandum eidem agenti [illegible] domum cum [illegible]
[illegible] vigore cuiusdam pacti ac instrumenti divisionum [illegible]
facti et celebrati inter q. d. Andream authorem eiusdem [illegible] vic-
toris ac sorores suas et ut [illegible] continetur in [illegible] eius libello
Nunc autem cum ipse [illegible] victor reus [illegible] [illegible] [illegible] suam
defendere ac [illegible] [illegible] sibi copiam ac exemplum [illegible]
libelli [illegible] contenti in eo sumptibus ac expensis [illegible] agentis [illegible]
quidem instrumenti exemplum ac copiam idem agens dare ac
tradere [illegible] non teneri et ut melius colligitur ex actis et
processu superinde factis. Modo queritur in premisso casu an ipse
d. Alexander actor de iure teneatur ad traditionem [illegible]
[illegible] [illegible] Et breviter attingendo materiam [illegible]
a doctoribus traditam dicendum est ipsum [illegible]
neri ad dandum ipsi reo [illegible] [illegible] [illegible]
instrumenti de quo in [illegible] petitione fit mentio [illegible] [illegible]
d. actor teneatur dare ipsi [illegible] victori reo [illegible] [illegible] et
exemplum dicti eius libelli expensis [illegible] est ex in aut
offeratur [illegible] de lit. cont. [illegible] offerri est non petenti dare [illegible]
singulariter [illegible] d. petr. de ferra in sua pra. in forma lib.
in actione reali super glo. ad evidentiam ubi [illegible] libellus
est dandus reo expensis actoris facit [illegible] in c. ignarus et
ibi d. Abb. ex [illegible] de lib. obla. [illegible] in l. [illegible] ff. de eden. habet
[illegible] de huius glo. sing. in [illegible] de [illegible] in [illegible]
[illegible] et plenius traditur per [illegible] in [illegible] [illegible] de eden
que [illegible] ad [illegible] memoriam An similiter dictus actor teneatur
ad editionem instrumenti [illegible] [illegible] mentio in eius libello [illegible]
[illegible] [illegible] cum instrumento [illegible] [illegible] [illegible] principali [illegible]
[illegible] libelli ac petitionis [illegible] [illegible] [illegible] [illegible]
[illegible] an [illegible] [illegible] vel [illegible] ut [illegible] huius habet.

tex. not. in. l. i. ff. de eden. ubi dicit: qua quis actione
agere vult. eam edere debet: ut perinde sciat reus an cedere
vel contendere debeat. et subiungit ibi tex. quod istud verbum
edere est copiam describendi facere: vel in libello complecti
dare. facit etiam ad premissa pulchra. et not. prat.
d. petri de fer. in forma petendi cop. instr. sup. glo. cum
anno in ver. Rursum queritur. idem tenet specul. in ti.
de instr. edi. § Nunc dicamus. ver. quid si quis. et istam
questionem plene per bar. in l. i. postq. § si dicis. ff. ut
leg. et fid. nomi. caue. Canoniste et precipue d. Abb. in
c. ex epistoli. de proba. et per eundem in c. cum inquis. ext. de
fide instr. et per bar. in duobus locis. in l. si legatum
ff. de eden. et in l. edita. c. eo ti. facit etiam ad predicta
d. Azo in eius summa eo ti. pall. ubi not. tenet quod fit editio
instrumentorum iudicis officio: que pertinent ad causam cognitionem
iudicij: quam plures iura et alias doctorum opiniones adduci possent: que tamen omittuntur. cum in hiis satis habeatur
clara et indubitata iuris decisio: predicta ergo sufficiant
ad decisionem presentis articuli. supplendo. etc.

oui
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[illegible]

[illegible]

[illegible]

in simplici [illegible]

[illegible] presumptio [illegible]

[illegible]

[illegible] omnia [illegible]

[illegible] ad [illegible]

[illegible]

[illegible] et [illegible]

[illegible]

[illegible]

In [illegible] Remandament [illegible]

[illegible]
[illegible] potea [illegible]
[illegible] satisfacere [illegible]

Allegationes [illegible]
placentum [illegible]

[illegible] causa [illegible]

[illegible] necessariis [illegible]

[illegible] ex causa et [illegible] fundamentis [illegible]

man. facto in exequutione [illegible] diffinitiua appellari no pot, et man. [illegible] d. [illegible]

[illegible] appellari no pot. maior pbat p tex in l. ab executore [illegible] minor [illegible]

[illegible] decreti [illegible] diffinitiuum [illegible]

[illegible] decreto [illegible] firma [illegible]

[illegible] firma [illegible] man. [illegible] exequutione, maior pbat [illegible] minor [illegible]

[illegible] facto p processu g. man. confirmari [illegible] conditione [illegible]

3. arguit arbiter ultra causam p commissum sibi commissa no pot [illegible]

[illegible] autoritate [illegible]

[illegible] arbiter extendere no pot [illegible] man. [illegible] autoritas [illegible]

[illegible] ipsius uenditionis [illegible] exequi debere no [illegible]

4. arguit [illegible] infringere uenditiones [illegible] decreto [illegible] maior pbat p d. [illegible] minor in facto [illegible]

[illegible] citati [illegible] firma remanet [illegible] citatus [illegible] tener [illegible]

[illegible] uenditionem no pbauit no [illegible] citata g. remanet firma uenditio [illegible] man. [illegible]

[illegible] processu [illegible] productione [illegible]

[illegible] nihil pbauerit p inspectionem [illegible] uenditionem [illegible]

[illegible] g. firma remanet uenditio, [illegible] man. confirmandum [illegible]

[illegible] arguit ad ostendendum [illegible] p d. [illegible]

[illegible] domina, massaria, usufructuaria, ac gubernatrice [illegible]

[illegible] ut sibi iudicet [illegible] ius suum [illegible] maior [illegible]

[illegible] g. d. [illegible] ius suum pdidit qa fuit citata [illegible]

5. arguit [illegible] fuisse uendita [illegible] reclamari [illegible]

[illegible] approbasse [illegible] ius suum pdidisse [illegible] d. [illegible]

[illegible] iudicasse [illegible] iure qd habuit [illegible] maior pbat [illegible]

minor patet in facto p processum qa [illegible] apparet [illegible]

[illegible] illa decidenda [illegible] uxore [illegible]

6. [illegible] arguit [illegible] marito [illegible]

[illegible] marito [illegible]

uerba [illegible] domina massaria usufructuaria [illegible] gubernatrice [illegible]

[illegible] habitationes [illegible]

[illegible] ab heredib [illegible]

tener no contributiones habitationes [illegible]

[illegible] portione [illegible] heres [illegible]

[illegible] habitauit [illegible] domus [illegible] habitationes [illegible]

[illegible] obligata [illegible] portione [illegible] domus [illegible]

[illegible] portione tener maior pbat [illegible] minor [illegible]

Veniendo [illegible] contrariam partem [illegible]

[illegible] mulierem [illegible] moueor [illegible]

d. Perpetua p marito [illegible]

[illegible]

[illegible] mo cotendit in domo [illegible] testatoris [illegible]

[illegible] quib quide alimetis oia sunt sibi obligata q fuerunt testatoris. l. iij. § l. incunt & ibi Bar. & cete. lega. g. cu dcg D. Perpetuz debeat alimeta & ic habitatio quoq sequitur q ex domo p mam. [illegible] no pot. [illegible] ypotecca & obligatione uigore dictorum alimetorum & diutina possessione sua in domo d qua no [illegible]

2° arguit heres heredis & ulterius sicut q. heres uigore dcoru uerboru tenet ad alimeta & p osequens ad habitationem [illegible] D. Ber. [illegible] huiusmoi g. tenet ad alimeta & p osequens ad habitatione in domo g. dca D. Benedicta [illegible] D. Perpetua expellere no pot, g. mam. sibi factu reuocandu, maior pbat p tex. in l. cu nouus § l. alimenta [illegible] ff. lib. lega. minor pbat in pcessu [illegible]

3° arguit cui coperit actio ad aliqd a forciori ad id coperit exceptio, sed D. perpetue operit actio con D. Benedicta p habitatione g. a forciori sibi coperit exceptio. maior pbat p tex in l. [illegible] & cui damus d reg. iur. & [illegible] liberatione [illegible] ff. d liber. lega.

4° arguit q prior tepore e & iure potior ee dr habenti ius posteriu, sed dca D. Perpetua potior e [illegible] D. Benedicta occone alimetorum sibi debitor [illegible] osequens habitationis g. d ee potior [illegible] expelli e domo. g. mam. reuocandu, maior pbat p tex. in l. quoties. C. d rei uendica.

arguit filius qui in iura primari succedit [illegible] aliqd alicuius primati uedere facit iure semp primati [illegible] uendere [illegible] primati & ic [illegible] Colerini d nicolettis [illegible] primati iure [illegible] primatus tenet [illegible] in casu nro [illegible] uenditio inualida uel saltem no iudicabilis [illegible] tex in l. unica [illegible] Bar. [illegible] sub pignore [illegible] per tex. in l. si eo tpe. C. d remis. pig. cosequentia pbat p costitutione [illegible]

[illegible] fundamentu [illegible] mihi duo [illegible] heres heredis testatoris e heres [illegible] representat psona defuncti [illegible] modo allegata. 2°. [illegible] q pariformiter eode modo [illegible] primi heredis heres e respectu primi testatoris tenet ad pstanda alimeta sicut primus heres [illegible]

arguit [illegible] clara e q primus heres respectu testatoris tenebat ad alimeta & p osequens ad habitatione [illegible] D [illegible] uolet d ea e domo expellenda, & hoc primo qa filius [illegible] contrauenies [illegible] adimplere uoluntate defuncti tamq indignus expoliadus eet hereditate [illegible] heres e ipius Colerini heredis [illegible] Beltradi & ulterius testatoris heres. & sic representans psona [illegible] di g. sicut ipe tenebat ad alimeta matris sue eode modo dca D. benedicta, & sicut posset tamq ab indigno [illegible] hereditas nolete adimplere uoluntate defuncti sed contradicete, eode mo no imaginari [illegible] D. Perpetua cui debet alimeta & p osequens habitatio. expellere ea e domo alioquin tamq ab indigna debere [illegible] uoluntate defuncti, et contrauenies expellat & auferrat hereditas [illegible] dca D. Perpetua excludi [illegible] pmissis [illegible]

arguit ius qd ad nos primet sine facto nro in aliu transferri no pot, sed ius habitandi ipius D. Perpetue [illegible] quoad [illegible] amissu & translatu, & p cosequens in dcaz D. Benedicta qd ee no pot [illegible] no [illegible] in eo transferedo g. transferri no potuit. g. adhuc penes dcaz D. perpetua e [illegible] minor [illegible] clara [illegible]

5° [illegible] fundameto [illegible] allegata & pbata ac deducta Iudex [illegible] ff. d offi. [illegible] dus e, ut patet p reg. iur. nemo sine actione expit, sed dca D. Benedicta [illegible] mam. reuocandu, q experiat [illegible] patet [illegible] pcessu [illegible] Benedicta [illegible] uigore [illegible] D. Perpetue [illegible]

[illegible] vera [illegible] opinione [illegible] in contrarium respondere [illegible]
[illegible] fundamenta [illegible] D. Perpetue [illegible] ipsa [illegible] respondendo [illegible] non obstat primum
[illegible] deductum [illegible] mandatum [illegible] continuo [illegible] qa [illegible]
fundamenti qa mandatum non e diminutum [illegible] inspectione eius et lectione [illegible]
[illegible] decreto [illegible] gravamen qa potuit D. Perpetua gravari [illegible]
[illegible] exceptionis [illegible]
[Non] obstat 2m fundamenti q pro qualibet decreto venditionis Interposito [illegible] quia videtur [illegible]
[illegible] non negari [illegible]
[illegible] meritis [illegible] D. Perpetue [illegible] infringere [illegible] venditionem [illegible]
[illegible] hoc non e [illegible] meritis [illegible]
[illegible] in possessione a tot annis citra [illegible] vigore [illegible]
[illegible] potuit [illegible] cum merito [illegible] in possessione vigore [illegible] Interesse suo speciale non fuerit
[illegible] nominatum [illegible] C. de remis. pig. [illegible] productione actorum [illegible]
[illegible] citatus
[illegible] quo dr. arbiter nostra causa, ibi comissa impedire non pot [illegible] qa videtur q [illegible] meritum
[illegible] comissa e. [illegible] ita apparet, mandatum n. e cum clausula, super eo fuit lis contestata [illegible]
[illegible] juris [illegible] super modo lata e sententia [illegible] sp. D. Vic.m [illegible] demonstrat meritum causæ non executum
q. [illegible] apparere pot in facto recte [illegible] inspectione processus [illegible].
Non obstat 4m fundamenti [illegible] q [illegible] Infringere venditiones fiscales In qbus Interpositum e decretum [illegible] non [illegible]
[illegible] infringere [illegible] non citatus, qa ad hoc [illegible] S. se nunquam fuisse illius meritis [illegible]
[illegible] infringere [illegible] D. Perpetue [illegible]
processus [illegible] non fuisse citatam [illegible]
[illegible] produxerit processum In manus nostras [illegible]
[illegible] nihilominus [illegible] tenet [illegible]
In l. 4 § hoc autem [illegible] 2am [illegible] 3am colum. [illegible] ibi [illegible]
Non obstat 5m fundamenti [illegible] q non e aliqs specificus contradictor [illegible] videtur q [illegible]
speciale non et [illegible] qa pecunie [illegible] D. Perpetue [illegible] vigore [illegible]
[illegible] In dicta domo nemine contradicente [illegible] Bar. [illegible] C. de remis. pig. [illegible] 2o [illegible]
[illegible] ipa D. Perpetua fuerit citata specialiter [illegible] nihilominus [illegible]
[illegible] peccati [illegible] iure, [illegible] concurrente [illegible] tractando [illegible]
[illegible] Jur. [illegible] ac. [illegible] C.
Non obstat. 6m fundamenti q ille q [illegible] fuisse [illegible] pro fisco [illegible] sibi In iure suo [illegible]
q. ideo non contradixit qa cum filius [illegible] erat [illegible] domus [illegible] a filio [illegible]
[illegible] 185 [illegible] in [illegible] in [illegible] meritis [illegible] paterni quo [illegible] matre [illegible] D. [illegible]
domina majaria [illegible] heres [illegible] tenebat sibi In dicta domo alimenta [illegible] In [illegible]
[illegible] habitationem [illegible] expellere [illegible]
[illegible] Indignus [illegible] paterna [illegible] hoc [illegible]
una ratio quare non contradixit [illegible] non contradixit [illegible]
In dicta domo iure obligationis [illegible] pietatis, qa filius tenebatur sibi dare habitationem In dicta
domo. l. scripto. §. non [illegible] unde [illegible] et ideo non contradixit [illegible]

[illegible] supradicta verba [illegible] impossibile [illegible]
[illegible] collusione quod obsit alieni contra sibi et super hoc cogitet consolator quia videbitur hinc quia ipsa [illegible]
restitutionem in integrum quatenus non contradixisse obesset quod tamen non obesset summo et colligo iustam causam [illegible]
qua peti possit restitui in integrum ex clausula illa generali si qua mihi iusta causa videbitur, contra quam
[illegible] (quod tamen oportere non puto) et inquantum possum sic sentiens de iure ea restitue cum omnes exceptiones
[illegible]

[illegible] obstat [illegible] fundamentum [illegible] hereditaria [illegible]
[illegible] in portione domus dicti [illegible] hier. quantum steterit in portione dicte D. Benedicte, quia [illegible]
dicte D. [illegible] posse eligere habitationem [illegible] facultates patrimonij in quacumque parte domus [illegible]
erat sibi obnoxia ratione [illegible] habitationis, licet heredes diviserint dictam domum [illegible] divisio [illegible]
[illegible] in [illegible] perpetue, et quod sit in facultate sua posse elligere habitationem invitis [illegible]
in quacumque parte probatur duplici fundamento primo quia verba [illegible] in testo important sicut [illegible] Bal.
[illegible] preeminentiam [illegible] reverentiam et [illegible] dominabilem administrationem et [illegible]
auctoritatem [illegible] in vita mariti [illegible] et habebat sicut [illegible] Bal. [illegible]
[illegible] in [illegible] hoc locum [illegible] imo plus dicit Bal. in dicto loco [illegible] uxor [illegible]
mariti post eius mortem relicta ea domina [illegible] ob aliquas [illegible] dicti heredes [illegible]
[illegible] invenire sibi habitationem extra domum ut ipsa vellet elligere que dicuntur ad ostendendam [illegible]
[illegible] eligendi habitationem [illegible] 2° probatur et fortius quia supradicta verba data est ibi facultas [illegible]
potestas habendi alimenta et consequenter habitationem et non de manu heredis [illegible] manu sua propria [illegible]
[illegible] et sic eligere habitationem in quacumque parte domus, quod ita sit verum est doc. Bar. in d. [illegible]
[illegible] et no. in l. i. ff. [illegible] et in l. [illegible] et Jo. an. in addi. spec. [illegible]
[illegible] Bal. in [illegible] in. VII. col. [illegible]
facultate sua posse eligere in quacumque [illegible] domus potuit eligere iure habitationem in portione [illegible]
[illegible] in portione [illegible] hier. ut ne [illegible] vero [illegible] vult acceptare [illegible]
dicte D. Benedicte [illegible] in [illegible] in facultate sua [illegible] supradictis et quod iuri [illegible]
[illegible] scripture quod in omnibus amplectenda est Just. rex. in l. in omnibus [illegible] reg. iur. ne nurus [illegible]
[illegible] quod habet loco filie audeat excludere octogenariam socrum que habet loco matris [illegible]
honestate teneretur ea domo continere et exclusa et postergata ei [illegible] loco [illegible] habeat [illegible]
[illegible] ceteris [illegible] alijs brevitatis causa omissis considerans [illegible]
Xpi nomine reperito. Nos Iacobus [illegible] iur. utri. doc. arbiter inter supradictas partes [illegible]
dicimus arbitramur sententiamus et sententiando declaramus male fuisse et esse iudicatum per [illegible]
[illegible] declaravit [illegible] ad instantiam dicte D. Benedicte [illegible] emptricis domus heredum [illegible]
[illegible] confirmari debere [illegible] sententia, et bene fuisse et esse appellatum [illegible]
[illegible], absolvendo utramque partem ab expensis quia [illegible] iuste egisse vigore testi [illegible]
[illegible] vero [illegible] legitimam habuisse causam se tuendi (prout habuit) vigore testi mariti [illegible]
[illegible] meliori modo [illegible]

[illegible]

[illegible]

[illegible]

Allegationes Nobilis domini Jacobi de Valve
sono contra dominum Pertoldum de Spegnibergo

Quoniam in hac nostra questione Nobili domino Jacobo
de Valvesono succurrendum est de iure tamquam
inscio et ignoranti de dicto debito pretenso cum
dictus dominus Jacobus numquam dictum debitum recepit
nec contraxit. et ideo forte de iure per patrem
suum fuit satisfactum cum illo tempore erat
potens in pecuniis et aliis rebus et ideo
dictus dominus Jacobus nescit uti alio iure nisi
prescriptionem dicti debiti / quod quilibet sane mentis
presumere debet cum dictus dominus Pertoldus
stetit spatio viginti quattuor annorum non petendo
dictum debitum tempore quo pater dicti
domini Jacobi vivebat cum vixit spatio sex annorum
post dictum contractum debitum et quod istud
sit verum patet Nam alii nobiles de Spe
gnibergo habebant partem in dicto debito nec
umquam petierunt quia videbant nullum ius habere
tandem dictus dominus Pertoldus causa inquietandi dictum
dominum Jacobum per litem fecit quod dicti nobiles de Spe
gnibergo habentes partem in dicto debito cesserunt
et donaverunt ei omne ius quod habebat in dicto
debito ut in processu apparet et sic hic iudex
comprehendere potest quod potius ista causa ex odio
fuit inchoata quam ex aliquo debito relinquo tamen
hoc sapientie iudicantis / Tamen in hac causa

tria dubia sunt / Primum an Constitutio pa
trie de prescriptionibus quadraginta annorum de
iure valeat et teneat. Secundum dubium
an Communitas unius de parte potuerit / impe
trare restitutionem pro tota patria / patria
non convocata. Tercium dubium in promissio
ducalis domini facta de restitutione novem annorum
preiudicet dicto s. Jacobi. Et de hiis tribus dubiis
visis satis clare iudex iudicare poterit. Circa
primum dubium videlicet quod valeat / et teneat dicta
Constitutio patrie probatur. Nam ipsa constitutio
conformat se cum iure civili. Nam ius civile
[illegible] prescriptionem tam
[illegible] fidei possessore quam male fidei possessore
[illegible] C. de prescription
[illegible] Ergo dicimus quod dicta Consti
tutio [illegible] tenet cum conformat cum iure
[illegible] fuit inter litem [illegible]
[illegible] prescriptio litem trahe
[illegible] in infinitum / Secundo modo dico quod valet
[illegible] Constitutio. Nam bal. in l. omnes populi. ff
[illegible] et iure tenet quod tale statutum loquens
de prescriptione valet / et tenet / quia est bonum
[illegible] licet non sit in iure
[illegible] non [illegible] ff. de iust. et iure. Ite dicit quod
lex potest ex causa auferre ius unius / et
[illegible] alteri et in hoc detrahere iuri naturali / vel

centum ut no. ho. in c. que in ecclesiarum
de constitutionibus et p. Cy. in l. respicta
C. de pri. hip. c. tu idem dicimus in
Constitutione patrie et hoc publice dispu
tando tenuit dictus dns bal. i sua disputatione
que incipit Creditor i feneratore . Nec
obstat si dicitur quod creditor mittere perciperet
i mile filey ... de repl. heres bl. dig.
... respondendo i in casu isto questionis
non potest ... mitterei percipere i persone
dicti fi ... [illegible] ... debitum
dictum debitum ... cessit illi
ro. ii. presumendum est dictum debitum solutum
fuisse per ea que supra ... magis dixi
Et ideo dicamus quod isto casu dicta Constitutio
de iure valet, et tenet ... ita in patria
ista multotiens est practicatum, et observatum
et ista sufficiant, quo ad ... dubium
nostre questionis. Circa ... dubium, utrum
in comunitas urbis de per... potuerit impe
trare restitutionem pro ... patrie
non convocata, et in hoc clarum est quod non
nam comunitas urbis est separata a nobilibus
patrie, et talis impetratio facta per dictam
Comunitatem urbis valet, et tenet quo ad
suos cives. non autem quo ad extraneos. l. ...
l. extra territorium. ff. de iur. o. iud. ...

heo q' dicta Impetracio nichil obest nobilium patrie. Nam in dicta impetracione non apparet q' dicta Communitas unquam fuerit procuratrix uel actrix aliorum de patria nec aliquid in mandatis habuerit et sic cum supradicta non constant dicimus q' talis Impetracio quo ad non subditos suos sit ipso iure nulla / et Iudex i hoc rectissime videre poterit. Nam procedo de ... quod Impetrat pro aliquo / uel contra aliquem debet constare de eius mandato ut ff. ... de ... et si non constat / illud paria per totum ... est ipso iure nullum proced est Impetratum, ... in casu istius Impe ... etiam dicimus ... tracionis facte per Comunitatem, unum q' ... sit ipso iure nulla quo ad non subditos ipsius Communitatis / et hec etiam sufficiat quo ad secundum dubium / Circha tercium dubium videlicet an promissio ducalis dominii facta de restitucione nouem annorum preiudicet supradicto ... Iacobo. et in hoc dicendum est q' non. Nam dicta promissio ducalis dominii nichil aliud est, quam quedam Constitucio in patria cum vult dictum ducale dominium q' nulli sit cursum tempus quatuor nouem annorum uel ibi circha ut in litera

continetur / Et constitutio noviter facta extendi
debet ad futura tantum non autem ad
preterita et pendentia [illegible] ut [illegible]
[illegible] omnes [illegible] de just. iure specialiter quando
in constitutione seu litera non est expressum
quod ad preterita et pendentia extendantur
Sed in dicta litera non est expressum ergo
dicamus quod ad futura tantum trahenda est
Nam si bene volumus considerare tempus
quo dicta litera fuit impetrata iam dictum
debitum erat prescriptum per dictum ser
Jacobum cum essent iam transacti viginti
quatuor anni et in [illegible] causa erat allegatum
per dictum ser Jacobum dictum debitum
prescriptum esse vigore constitutionis pre
cum dictos vigintiquatuor annos dictum de
bitum non fuerat ~~erat~~ petitum per dictum ser
Bertoldum seu alios habentes aliquid iuris
in dicto debito et ideo causa ipsius debiti ~~[illegible]~~
prescriptioni ipso iure finita erat vigore
constitutionis que dicit quod ipso iure debitor
a iure suo privatus sit quod verbum est
preteriti temporis [illegible]
in hoc requiritur [illegible]
fuit [illegible]
ipso iure debito suo per ea que notantur
[illegible]

si dicatur quod dicta causa pendebat tempore quo
dicta litera impetrata fuit, quia ad hoc
respondeo duobus modis, primo quod talis impe-
tratio fuit ipso iure nulla quo ad ipsum s. Ja-
cobum, et alios nobiles de patria, cum fuerit
impetrata per commutationem verum utrum
in secundo dubio satis dictum est. Secundo
modo dico quod iam dictum debitum erat
prescriptum tempore dicte impetrationis et
ideo licet causa penderet non debet extendi
ad illud, quod iam erat de iure exstinctum
Et bar. in dicta l. omnes opposi tangit
que cause dicuntur finita preterita, et
decisa, et dicit transactionem, sententia
iuramento solutione compensatione prescriptione
et aliis modis ut allegat ut l. causas. C. de
transac. et l. post in fine C. de sacramento
sal. et ultimo inter ut sponsa. bar. s. fi.
Sed in casu nostre questionis dictum debitum
erat prescriptum, ut iudex recte videre
potest. Ergo dicimus quod dicta litera, seu con
firmatio ad dictum iam debitum prescriptum
extendi non debet per iura superius
allegata, Et sic clare patet quod dicta
provisio ducalis domini non habet nocere in
casu nostre questionis ipsi s. Jacobo, quod non s.

nocere haberet esset dare casum quo aufe
reretur ius suum ipsi p. Iacobo sine causa
quod minime credendum est nec de iure
posset auferri ut no. Cy. et bal. in l. ma
rescripta. C. de precibus imp. offe. et bar.
i principio ff. veteris. Et sic ex omnibus
[illegible] dicere [illegible] ipsum p. Iacobinum
[illegible] sine [illegible] fore [illegible] petitione
[illegible]
allegata [illegible]
tamen saniori iudicantis.

Deo gratias Amen

restitutionis

[illegible] primum [illegible]

[illegible] est [illegible]

rasura not'

[illegible]

[illegible] et [illegible] cum [illegible]

[illegible] nominibus [illegible]

[illegible] in [illegible] attestatio [illegible]

mina. Hec [illegible] ad [illegible]

allegat c. [illegible] c. [illegible] de fide instrum. et ibi nota [illegible]

et [illegible] et c. cum te c. Super litteris et c. Significante c. Rodulphus

et c. licet de [illegible] ubi textus optimus [illegible] omnibus [illegible]

[illegible] dicat v. versi [illegible] ad hanc idem glo. [illegible]

de c. [illegible] ubi premissa prolonge [illegible]

Nec obmitto quod dominus [illegible] in de c. [illegible]

dicens quod longe plus rasura arguit [illegible]

ubi [illegible] dicat que [illegible] sequuntur [illegible]

[illegible] in [illegible] de [illegible] restat [illegible]

adversarius palare [illegible]

et videns et sciens [illegible]

[illegible] et [illegible] et licet [illegible]

[illegible] est quia ipse non est qui [illegible]

[illegible] et [illegible] et tamen ipse [illegible] et ideo [illegible]

[illegible] notarium manifeste cum [illegible] quia doctores et glo.

[illegible] est [illegible] rasura non est eadem manu [illegible]

[illegible] quod [illegible] eadem manu [illegible] tamen in loco suspecto [illegible] ut

[illegible] in de c. [illegible] dicens ad hanc [illegible] Hec duo [illegible]

[illegible] ne rasura [illegible] arguat [illegible]

et loco non suspecto [illegible]

eadem [illegible] nec [illegible] suspectissima [illegible]

[illegible]

... ridendum non obstanti ...

[illegible]

non processit ita quod primo non constiterit de aliqua contumacia nec ... petitione processit ... non constat ... considerato quod ... mihi illa causa quo tollit mihi defensiones competentes contra ipsum processum ... ex indebite contra me fulminatum

Tercio allegat ille miser quod hora prima et tercia eadem in ... reputatur certe pulchra ... credit non ... posset fore nulla ullo ratione ... distinctione ...

Quarto dicit quod ... Si deducuntur fere omne dilectum ...

Item ... dicit quod ... in ... et ... dicit ... nec ... sine ... et ... processus ... contra quos erant ... et migras ... multas instancias ad magnas expensas erant ...

Nec solum illa ... contentus ... sed alias plures et enormes ... dicit ... processus ... super ... non tenet processus ... respiciendo ... post datos ... est ... non tenet processus ... ad respiciendum ... post ... datos illud falso asserit.

... processus ... et ... nolueriint ... libello ... constat ... et hoc ... processus ... sed ... apparet ... fuisset

Item quod ... mentum ... apparet

[illegible]

[illegible] dum aut [illegible] a [illegible] iudex tot et tantas [illegible]
[illegible] ipso [illegible] deffinitiua [illegible] C. de [illegible]
[illegible] decem [illegible] libri [illegible]
[illegible] C. de [illegible] not [illegible]
[illegible] iudex [illegible]

[illegible] non [illegible] C. de [illegible] uno [illegible]
[illegible] et [illegible] in [illegible] et [illegible]
[illegible] in additionibus [illegible] in [illegible] de [illegible]
[illegible] non [illegible] non [illegible]
non debet [illegible] nec non [illegible] Et non [illegible]

[illegible] et [illegible]
[illegible] uno [illegible]
[illegible] modo [illegible]
[illegible] quod [illegible] non [illegible]
[illegible] in publicatione [illegible]
[illegible] de [illegible] in [illegible] non [illegible]
[illegible] et [illegible] de [illegible] in [illegible] non [illegible] C.

[illegible] non [illegible]
[illegible] de [illegible]
[illegible] de [illegible]
[illegible] uno [illegible]
[illegible] non [illegible]
[illegible] et [illegible] non [illegible]
[illegible] non [illegible] C. [illegible]
[illegible] in [illegible]

[illegible]

[illegible]

[illegible]

[illegible] [illegible]

In mat· falsitatis instrumenti·

Rasure·

CONSILIA

In mat[eria] successionis filie naturalis in bonis matris. Ite[m] in causa mercedis:~

Restituat Joanni Erasmus nov° Camp:

IN CHRISTI Nomine amen: Anno nativitatis
eiusdem domini millesimo quingentesimo trigesimo
tertio, Indictione sexta, die vero mercurii
quinta mensis martii. Actum [illegible] in
Salla nova palatii communis transpontem
presentibus ex [illegible] [illegible] perrio
et [illegible] Antonio belloro notariis [illegible]
testibus et aliis pluribus in multitudine copiosa
Coram magnifico et Clarissimo
domino Niclao [illegible] [illegible] illustrissimi
[illegible] [illegible] [illegible] consiliario locumtenente
generali meritissimo ac [illegible] [illegible] pro
tribunali ordinarie sedente post [illegible]
et post pulsationem campane [illegible]
[illegible] [illegible] doctore domino Vincentio de
Rubeis patavino eius vicario et [illegible]

Pro Rufina de Montealchono quondam [illegible]
[illegible] de Cuidaro cum spectabili domino
Valerio de [illegible] Simon [illegible]
de montealchono [illegible] [illegible] [illegible] ac
[illegible] legum doctore domino Joanne Fran-
cisco [illegible] procuratore [illegible] [illegible] manu
mei notarii declarande [illegible] [illegible]
[illegible] [illegible] [illegible] fecisse dictum
dominum Valerium tamquam successorem et

et heredem omnium Felitinorum pro mar
chis decem et septem ℔ 60 ℥ expensarum
Sententie late de Consilio egregii legum doc
toris domini Joannis de manzano manu
mei notarii, Ideo Insisterunt pro Con
firmatione pignorationis eorum, et revo
catione contradictionis dicti domini valori
cum expensis etc. Ex adverso egregius
doctor dominus Joannes mels Interveniens
pro dicto domino valorio, et dicens nullum
fuisse competentem eidem Justine pignorandi
dictum dominum valorium stante sententia
lata de Consilio spectabilis domini Nicolai
Cilliole manu mei notarii, et Ideo Instante
pro Confirmatione Contradictionis sue et
revocatione pignorationis dicte Justine cum
expensis etc. et de voluntate dictarum
partium productis dictis sententiis fuit
conclusum In Causa.

Sententia Dionysii quondam Justi
Cusser Cerdonis.

Duuno utraque invocato Christi nomine: In Ista
Causa mihi de partium voluntate Comissa
que vertitur Inter Dionysium quondam
Justi Cusser ex una: et Bartholomeum
Felitinum ex alia: ex Causa salarii pro

familiaris quondam Gomete mariti Radegunde
matris ipsius Dionisii consydero imprimis
quod satis liquet in processu ipsum Dionisium
fuisse filium Radegunde et ipsam Radegundam in
fuisse filiam Gomete et per consequens
si ipsa Radegunda vixisset post mortem
Gomete mariti sui potuisset ei succedere
l. i. C. unde [illegible] et ad Tertul. § novissima
[illegible] ad [illegible] habetur in auctentica quia illustris
[illegible] cum tamen [illegible] Radegunda mater Dionisii
sit et esset mortua [illegible] et sic consequenter
de medio [illegible] locum [illegible] suo
ut possent succedere eorum aue ut in §
ita demum et in § cum filius [illegible]
[illegible] ad [illegible] sit non quia ipsa [illegible] tamen
filia et quoque in processu satis liquet
quod ipsa Radegunda fuit nata de soluto
et soluta et consequenter non fuisse adulterina
sicut opponebatur et per consequens ipsam
et [illegible] fuisse [illegible] bone
[illegible] ipsius quondam [illegible] et [illegible] in hoc
[illegible] non [illegible] tam [illegible] ac alia [illegible]
In [illegible] igitur [illegible] petitionis [illegible]
Dionisius [illegible] et [illegible]
[illegible] condemnari ad [illegible] satisfaciendum
marchas [illegible] xvij [illegible] v. [illegible]

et Calculo de quo in libro ipsorum de filiutim-
is qua partita producta aparet quod ipsa
quondam [illegible] Agnesa del. 1466. pro eius
famulatu prestito ipsis filiutimis ex Calculo
facto restauit creditrix de dicta suma
que partita plenam probat contra scribentem
l. quadam § nummularios ubi glo. ff. de edem.
bar. in l. nuda ff. de donat. et in l. admo-
nendi ff. de iureiur. ubi d. Jason dicit
col. 68 quod de hoc nemo dubitat s. quod scriptura
privata non probet contra scribentem et
maxime cum talis scriptura continet
causam propter quam scribens sit de-
bitor ut per bar. in d. l. nuda in 1.
col. et in l. generaliter c. de non num. pec. et
per alex. in q. 182. 2° volum. ergo
videtur quod cum ipse dominus [illegible] probet ut
supra intentionem suam quo ad istud primum
caput petitionis sue quod debeat obtinere
in secunda vero parte petitionis [illegible]
ipius dominus [illegible] petit [illegible] bar-
tholomeum condemnari ad satisfaciendum
sibi de mercede ipsius quondam eius avie
[illegible] ipsius [illegible] quod [illegible] factum
del. 1466. citra, hoc est usque ad tempus mor-
tis ipsius Agnetis que mortua fuit in domo
filiutinorum del. 1497. et sic pro annis [illegible]

non Computato eo anno quo fuit calcu
calculum et sic videtur per id minus
dicendum ... d. Bartholomeus ...
erat ... extractis annis sex quibus
ipsa ... suis ... moriens ... et ...
et extractis annis duobus quibus ... steterit
patavii ipsi dionisio pro mercede annorum
vigintiduorum de marchis quadragintaquatuor
in ratione marcharum trium secundum
dispositionem aliquorum testium dicentium
ita fuisse de mercede conventum ... hoc
... Calcoding ... Camisy ...
Conveniet tamen dubitare de aliquibus circa
premissa, et primo ... Constitutio ...
sub ru. de salario famulorum obstet ipsi
Dionisio agenti ad premissa tam circa primum
Caput quam secundum sue petitionis. Et
breviter quantum attinet ad primum Caput
sue petitionis dico quod non obstat maxime
ipsa Constitutio dicat quod transactis sex mensibus
famuli vel famule nihil petere possint
de mercede vel salario suo et quod presumatur
facta solutio transacto dicto tempore dico tamen
quod non adeo presumatur ... factam solutionem
ipsius mercedis quin possit in contrarium
probari quod non fuerit facta solutio ut probatur
ubi ... probetur ... [illegible] temporis ...

tertio medio tempore vera in Judicio
vel extra et [illegible] possit tamen disserri
[illegible]andum principali [illegible] vult in [illegible]
in facto falsa sit in totum vel in parte
Ergo non potest dici quod ista sit presumptio
juris et de jure que ex quando [illegible]
omnino ista esse vel non esse et nullo casu
admittit probationes in contrarium ut decla
rat glo. et bal. in l. sicut proscriptis c. de
probat. et in l. [illegible] ff. de [illegible] [illegible] dicendum
est ergo quod talis presumptio est presumptio
Juris tantum adversus quam bene admittitur
probatio et quod hoc sit verum probo per
fundamentum in [illegible] nam non est dubium
quod si famulus [illegible] a domino suo instrumentum
continens creditum suum quod tale instrumentum
et post sex menses probant contra dominum
et similiter [illegible] si esset testis [illegible]
de dicto credito admitterentur ad probandum
pro famulo, quia a pari procedunt testes
et instrumenta ut [illegible] in [illegible]
[illegible] c. [illegible] et per [illegible] in
§ 3. in [illegible] [illegible] quam [illegible]
esset probari creditum [illegible] per [illegible]
per librum [illegible] creditorum cum talis scri-
ptura [illegible] privata probat contra scribentem
ut supra conclusum fuit
Ad [illegible] non obstat etiam quod [illegible] [illegible]

tionem ablata actio per ipsam continuando
[illegible] [illegible] inter m[illegible] nam et [illegible] in
[illegible] [illegible] [illegible]. quia [illegible] edictum denegat
actionem directo dicendo actionem non dabo
[illegible] [illegible] in casu nostro quia lex non tollit
directe actionem [illegible] opt[illegible] exceptionis. cum
exceptionis [illegible] [illegible] per contrariam proba
tionem que admittitur [illegible] [illegible]
[illegible] [illegible] [illegible] declarat [illegible] [illegible] [illegible]
[illegible] nam et [illegible] ff de jurejurando. Et habetur
in l. 1 [illegible] ff. de tribal. et in l. 3. § [illegible] ff.
de [illegible]. Et hec sufficiat quo ad hoc terminu
[illegible] in quo continetur [illegible] Bartholomeus
condemnari [illegible] ad [illegible] de [illegible]
martha [illegible] 17. [illegible]. [illegible] dubium [illegible]
[illegible] con [illegible] [illegible] [illegible] [illegible] [illegible]
de mercedum [illegible] consequendam
[illegible] annuum [illegible] [illegible] [illegible]
martha [illegible] 4 [illegible]. Et breviter dico [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] contra
[illegible] [illegible] [illegible] [illegible] contradicta [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
de dicto [illegible] in processu per aliqua
aliqua [illegible] alias probationes [illegible] [illegible]
ipsam presumptionem [illegible] [illegible] Bartholomeus
venit absolvendus ab [illegible] [illegible] [illegible]
petitionis [illegible] [illegible] qua actor [illegible] Johanne

rent absolui debet l. ac [illegible]. C. de [illegible]
. qui acta [illegible] C. de comm. cum similibus
nec [illegible] obstat ad [illegible] quod consuetudo [illegible]
intelligi debent de [illegible] [illegible]. Si postquam
famulus vel famula recessit a domo patroni
et domini, quod etiam [illegible] esset considerandum
est quod licet ipsa [illegible] mortua fuerit in domo
filiarum tamen prefati eius heredes
non petierunt in tempus a parte [illegible]
[illegible] mercedem [illegible] tempus prefixum
famulis intelligit similiter prefixum [illegible]
[illegible] qui tenent locum defunctorum [illegible]
de [illegible] a mor. [illegible] et sic omissis multis
aliis superfluis concludo ut [illegible] [illegible]
et [illegible] absoluendum [illegible] [illegible] Capitis [illegible]
Restat modo videre de dubiis [illegible] primo
quid apparuat fuisse [illegible] [illegible]
post calculum [illegible] per ipsos [illegible]
et an intelligatur [illegible] ad computum
[illegible] marchalis 17. an vero [illegible] computum
[illegible] [illegible] [illegible] post ipsum
calculum, et in primis dico quod sicut ex [illegible]
libris apparet ipsa [illegible] recepit, omnibus
computatis que fuerunt sibi data post ipsum
calculum libras [illegible] sexaginta octo [illegible]
non computatis tamen quibusdam partitis
modice summe et in hoc [illegible] primus consultor

Iudicio meo i(n) fuit in errore dum calculauit
recepta per ipsum [illegible] a [illegible]
ad summam [illegible] .3. Et [illegible] inaduertenter
calculauit certas partitas [illegible] prout
del .1464. et .1465. et sic ante calculum
factum del 1466. que partite comprehense
fuerunt in calculo predicto del .1466.
ut apparet ex tenore scripture posite
[illegible] partitas. Et [illegible] dicte
partite non debuerunt calculari per eum
quia intrassent dupliciter contra [illegible]
Errauit etiam [illegible] dominus primus
consultor iudicio meo, in [illegible] calculo dum
concludit [illegible] [illegible] [illegible] non omnes
calculatum in marchis 17. libras [illegible]
ut supra dictum est [illegible] tantum libras
.102. quia [illegible] bona fide calculari
marcharum .17. [illegible] [illegible] [illegible] [illegible]
in totum libras 142. [illegible]
Errauit [illegible]
dominus primus consultor manifestissime in
calculatione annorum seruicii [illegible]
[illegible] annis [illegible] tamen [illegible] annos [illegible]
[illegible] de quibus supra [illegible] non [illegible]
[illegible] errorem [illegible]. [illegible] miram
[illegible] erit errorem [illegible] dominum consultor
[illegible] hoc [illegible] [illegible] [illegible]
[illegible] erat [illegible] quid vero [illegible]

alio dubio, ~~dicit~~ nunquid solutum de quo apparet
ex ipsis libris cancellantur factum in
ipsis marchis 17 et 6. an vero sit mentio
et servitio ~~[illegible]~~ ipsis filiinis per istius
per ipsam curiam post calculum, pronunciatum
[illegible] breviter videtur ista materia ac
qua in l. i. [illegible] et in l. si ex pluribus
in pluribus aliis tt. de quibus in [illegible]
de solut. ubi per bar. et doc. tamen
consideratio [illegible] varietate earum marcharum
[illegible] et 6 reperitur in libro predicto
[illegible] et non cancellata per ipsos
filiinos, et sic non presumitur facta solutio
[illegible] illam causam ut [illegible] bonus tex. in l.
[illegible] § qui tabulas in fi. ubi bar. ff. de
furtis, ubi ex cancellatione scripture probatur
solutio debiti ergo pari modo ex non cancel-
4 latione non probatur facta solutio ut
contrariorum eadem est disciplina l. i. §
huius [illegible] de [illegible] ubi [illegible] et tanto
magis hoc iudicari debet, quia ex ipsis
libris ego non reperio aliquam partitam
continentem [illegible] fuerit solutum [illegible]
usque ad tempus mortis ab anno 1480
citra nisi quid minimum [illegible] sic ut apparet
[illegible] per annos 17 [illegible] quibus [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

maxima equitate et rigore iuris procedi
debet. Conplacuit in dicto iudicio insolidum
[illegible] partem et quicquid reperitur
conscriptum et [illegible] [illegible] quod [illegible]
in libris [illegible] [illegible] [illegible] ad com
putum [illegible] per [illegible] postea [illegible] et
per consequens [illegible] creditum [illegible] mar-
hare .17. remanserit [illegible] sicut
in ipso libro reperitur.

Nos [illegible] [illegible] et aliis pluribus animum
nostrum moventibus [illegible] [illegible] [illegible]
faris CHRISTI nomine invocato, a quo
cuncta et recta et iusta [illegible] [illegible] iudica-
[illegible] et consulo [illegible] [illegible] et [illegible]
Lazari Mocenigo [illegible] [illegible] [illegible]
dignissimi [illegible] [illegible] et [illegible] [illegible]
[illegible] ac [illegible] fore et esse in iudicando
et declarando inter dictas partes et [illegible]
[illegible] atque declaret [illegible] quo [illegible]
declaret male [illegible] et esse [illegible] [illegible]
per spectabilem dominum capitaneum et
[illegible] [illegible] [illegible] de consilio [illegible] Doctoris
domini Nicolay [illegible] [illegible] consultoris et
[illegible] absolvimus et [illegible] [illegible] a
petitione [illegible] marchas decem [illegible]
[illegible] pro [illegible] quod [illegible] [illegible] [illegible]

et bene fuisse et esse appellatum ab ipsa
sententia in ea parte, et in melius refor-
mando ipsam declaracionem condemnavit ipsum
Bartholomeum pro certis porcionibus ... quam
ad satisfaciendum ... diem ... marchas
decem et ... et ulterius absolvat ipsum
Bartholomeum a peticione salarii ...
temporis petiti per ipsum Dionisium et
consequenter declaret in hac parte bene
fuisse et esse iudicatum de consilio ...
domini consultoris per ipsum dominum cap.
et eius dominus Astanneus et malle fuisse
appellatum. Et quoniam utraque pars
est victrix et victa absolvat partes ab
expensis excepto salario meo quod pro
dimidia solvatur. Laus deo amen.

Et ita ut supra dictum et conclusum est
... et consulo iurisconsulto ... Joanne
de Manzano iuris doctore ... sufficiet
... Subscripsi et sigillavi, alio
iudicio cuiuslibet melius sentiencium semper
me subicio. Item laus deo amen.

Millequinquentesimo ... Indictione ...
die ... mensis ... iunii
Actum in Civitate Austrie in ... domini
... dominis Hieronymo, ac Antonio de
... Consiliariis coram me

notario [illegible] [illegible] spectabilibus ac [illegible]
Doctor Dominicus [illegible] manzanin [illegible]
in manibus [illegible] domini [illegible] de [illegible]
[illegible] a [illegible] [illegible] [illegible] ne [illegible]
[illegible] veritatem [illegible] [illegible]
[illegible]

Franciscus [illegible] notarius
[illegible] requisitus

Die Mercurii [illegible] Junii 1518 Indictione
Sexta [illegible] sub [illegible] [illegible]
[illegible] locum doctoribus dominis [illegible] de
[illegible] francisco de [illegible] et Antonio
[illegible] et aliis pluribus in magna
copia coram [illegible] domino locum
ad [illegible] [illegible] extraordinarii [illegible]
[illegible] cum [illegible] [illegible] vicario
comparuerunt in termino ad hanc diem et
sub [illegible] [illegible] [illegible]
de [illegible] cum [illegible] domino [illegible] de
[illegible] eius advocato ex una et [illegible]
[illegible] de [illegible] nomine [illegible]
de [illegible] ex alia: [illegible] omnia
[illegible] salarium [illegible] [illegible]
de manzanis [illegible] [illegible]
[illegible] partes et illud [illegible] mihi
notario [illegible] [illegible] durans, quod [illegible]

alarium [illegible] [illegible] fuit [illegible] dom[illegible]
Quo facto [illegible] apertum fuit eorum consilium
[illegible] [illegible] [illegible] et [illegible]
[illegible] [illegible] [illegible] ita [illegible] [illegible]
[illegible] domino [illegible] quo supra nomine
pronunciavit [illegible] ut [illegible] [illegible] consilio

Sententia inter Dionisium
Cusser et Filitinos

IESV CHRISTI Redemptoris nostri, eiusque inclyte
genitricis nominibus et suffragiis invocatis.
Petitio Dionysii Cusser adversus Bartholomeum
Filitinum [illegible] eum actorem ac [illegible] [illegible]
mortuis quondam Agnetis [illegible] a nallis pre-
fatorum de Filitinis non videtur posse pro-
cedere nec quo ad primum eius caput in
quo petuntur marche [illegible] decemseptem
et librae [illegible] [illegible] [illegible] facto et [illegible]
[illegible] per ipsum Bartholomeum [illegible]
[illegible] [illegible] Dionisius dixit velle in [illegible]
stare [illegible] nec quoad secundum eius asserti [illegible],
nam [illegible] verum est, quod tempore quo prefata
Agnes concepit et genuit quendam
[illegible] eundem Dionysium ex quondam Philippo
[illegible] tam [illegible] dicta Agnes fuisset alii viro
copulata, ut ex eo filium haberet, ut de-
ponunt Bartholomeus [illegible] et domina
Clara [illegible] testes in processu deducti

et sonat partita libri predicti certo cer
tius est eandem Cunizundam fuisse dul
torinam, et ex illicito coitu conceptam
et genitam matri ut succedere non po
tuisse, ut in aut. quibus mo. natu effici
legi. §. si et in aut. quibus mo. natu effic.
sui §. ult. in aut. ex complexu. et in l. qui
con. c. de incestis nup. et c. lator et c. tanta
qui filii sint legitimi legi. Si vero
tunc dicta agnes fuisset soluta pro ut con
tendum est tum ut evitetur presumptio
delicti l. merito ff pro socio tum quia
ttes proponi minus de matrimonio deponun
dicta Cunizunda potuisset matri succedere
ex extantibus legitimis et naturalibus l. i
§ sed et vulgo ff. ad tertull. junct. ad effecta
§ novissime. tenet Ange. in § si in aut.
quib. mo. natu. effi. sui coll. 7. ex quo mater
non fuit illustris, quia tunc dicta Cunizunda
non successisset matri cum legitimis ut in
l. si qua illustris c. ad orfi. et tenet dominus Nic.
de eubal. in tractatu suo de successio. ab intesta
in tertia specie successionis ad finem ex suppositio
igitur dicta Cunizunda fuerit concepta in
ex illicito et soluta et sic spuria et non
adulterina et matri successibilis adhuc eius petitio
non videtur excludenda stante constitutione
marie posita sub rub. de illario famulorum

et ancillarum q. exposuit vult q. famule et
famuli lapsis sex mensibus non petere
possint ab eorum dominis de mercede. Sic
vult ~~q. exceptio~~ q. presumatur fuisse ~~sib~~
satisfactum nisi probetur. [illegible]
Unde post a morte . tenens qui obiit in
1497 in lapsu triduum ex mensibus de anni
14. et [illegible] quibus dominus exceptionibus uteretur
sine actione eo q. ~~[illegible]~~ Const. predicta
ea subtulit ut declarat Bar. in l. nam
et postea in principio ff. si certum petatur
in l. § sublata cum similibus utrobique allegatis
per doc. ff. ad trebellia. et eo magis quia
ut predixi constitutio predicta presumit
sibi fuisse ~~factum~~ satisfactum. Ergo quoniam
presumptio legis habentur pro veritate ut
in aut. de instru. cau. et fide in prin. ~~[illegible]~~
6. et notat glo. in verbo presumitur in l. 26
§ j prin. ~~sequitur q. exceptio sit sine~~
~~action~~ c. de rei vendi. ad. et bar. in l. 15. qui
pro emptore ff. de usucap. et vera solutione
tollitur omnis obligatio ut insti. quibus mo.
tolla. oblig. in prin. sequitur q. exceptio sit sine
actione q. est filia obligationis l. 13 in ob.
ff. de procu. sine qua actione nemo efficaciter
exponitur l. questionis § si specialiter ff. de admi.
tuto l. si pupilli § videamus ff. de nego. ge.
unde quoniam ista presumptio sit iuris et
de iure ut declarant doc. et presertim bal.
in l. sive possidentis c. de proba. cum similibus

et adversus eum non admittatur probatio [illegible] contra confessionem [illegible] [illegible] [illegible] gl. et [illegible]
[illegible] [illegible] jam [illegible] de dona. an nup.
[illegible] [illegible] [illegible] in [illegible] [illegible] [illegible] [illegible]
Dominico [illegible] contra libros [illegible] cum
plurimorum non [illegible] [illegible] [illegible] [illegible]
liber rationum privatarum probat contra scri
bentem [illegible] et l. [illegible] c. de proba. l. nuda
[illegible] ff. de dona. et notatur in l. admonendi cum
similibus ff. de iureiuran. in [illegible] [illegible]
[illegible] admitteret probationem. [illegible] aut ubi
presumit [illegible] creditori [illegible] quia
tunc [illegible] libris [illegible] [illegible] et contra [illegible]
ut in [illegible] [illegible] et probat [illegible] [illegible]
in fine cum vult [illegible] [illegible] iuramento
[illegible] et [illegible] [illegible] et uni dispositione
iuris communis, et quo [illegible] non vult posse
admitti probationem in [illegible] [illegible] iuramentum [illegible]
dicta aut si iam [illegible]

Preterea et [illegible] quando [illegible] [illegible] [illegible]
[illegible] pro [illegible] sententia . Concludunt
adhuc [illegible] possit pro [illegible] Dominico iudicari
nam [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible]
Reponentur [illegible] eisdem [illegible] [illegible] [illegible]
[illegible] 103 ut [illegible] in [illegible] dictorum librorum
[illegible] [illegible] Dominicum [illegible] [illegible] et [illegible]
[illegible] [illegible] cum [illegible] ubi notatur
ff. de his quibus ut [illegible] [illegible] quoad [illegible]
caput [illegible] [illegible] [illegible] [illegible] [illegible]

quod deberetur omnis tollitur dubia. ex quo in
ad mercedem ulterioris temporis post illam
ultimam confessionem que fuit del. 1480.
in die 8ª Januarii. testes dicunt eandem
Agnetem stetisse aliquamdiu patavij cum aliis
et tandem redijsse habitatum cum dictis pupillis,
et nihil deponunt de conventione mercedis sue
nummis deponunt quod per quinquennium ante
eius obitum nullum merebatur sallarium, eo
quia erat impotens ad serviendum et iam decre-
pita non aliter declarantes tempus in quo
redijt ex patavio, nunc mercedem conventam ulterius.
Unde cum decesserit in 1497. ut ex partita
funeralium suorum de qua in libris predictis
et ab Anno del. 1480. usque ad Annum. 1497.
fluxerint Anni septem dumtaxat ex quibus
sunt detrahendi anni quinque quibus fuit inutilis
ad serviendum ut supra. superest satisfactio
solum de Annis duobus residuis, ad quorum com-
putum coherent impense facte de quibus
supra ascenderunt ad summam librarum 14 s. 9 d. 4
circa quam mercedem horum duorum Annorum
nequeo certam ferre sententiam ff. Curare
l. si. de acti. tum quia non constat de conventione
mercedis petite. tum quia non constat de tempore
in quo cepit servire et quo constare debuit ut
per ... et alibi in l. non solum § sed ut probari
ff. de oper. no. nunc. et si dicatur quod mercedem
Arbitrari ... soluta erat opera sua locate

[illegible] lucr[illegible] in car[illegible] de vargo [illegible]
[illegible] allario [illegible] nunc [illegible]
[illegible] Consulunt Fide[illegible] in [illegible]
[illegible] 218 incipiente [illegible] Federice videtur
[illegible] adhuc [illegible] non constat [illegible] mulier [illegible]
[illegible] sponsi [illegible] vocari [illegible]
ex tempore variari potuit et [illegible]
[illegible] [illegible] quia sponsi non
sunt pares in omni [illegible] prout ex
deponunt [illegible] [illegible] Bartholomei dicentis
[illegible] nunc temporibus nescirbant [illegible]
aliud amilibus [illegible] et [illegible] armis
[illegible] contracta [illegible] non [illegible]
[illegible] quibus omnibus et aliis [illegible] causa [illegible]
[illegible] Consulo partes spectabilium dominorum
Capitanei et [illegible] in absolvendo
eundem [illegible] Bartholomeum a petitis ac [illegible]
partes ipsas ab expensis propter [illegible] proba-
bilem causam litigandi

[illegible] ita ut supra [illegible] et Consulo ego
Nicolaus [illegible] doctor [illegible]
[illegible] in [illegible]
fidem subscripsi et sigillavi ad laudem omni-
potentis dei. Amen.

Die Martis octava Januarii 1516 indictione
quarta Urbini sub [illegible]

et Joannemaria de Louaro et et Biasinus
Louaro notariis ut[illegible] [illegible] Sedomibus
ordinarie [illegible] a [illegible] pro recepto
[illegible] dec. [illegible] terre [illegible] cum [illegible]
[illegible] a Rodulpho de Melio et [illegible]
de Sertani [illegible] de Fontebono et
Francisco [illegible] a [illegible] deputatis
per [illegible] communitatem [illegible]
[illegible] [illegible] super scripto
[illegible] domino Hieronymo Sanlhomo
[illegible] aduocato pro publicatione suprascripti
[illegible] [illegible] partibus aduersis
domini Rizardi de Fontebono actoris ad
causas [illegible] Bartholomei Philibini fuit
apertum et publicatum dictum consilium
[illegible] [illegible] dominis judices
[illegible] pro [illegible] consilio [illegible]
qua sententia [illegible] [illegible] illico ap-
pellauit cui admissa fuit [illegible] [illegible]

[illegible]

... iura ... Bar. ...
... obligari ... hipotheca ...
spem ... habere ...
... habens speciale ... hipotecam ...
... creditor ... generali ...
... creditore ... primitus ... secundus ...
... pignus ... speciale ...
... actione ... personali ... actione ... contra ...
... dictis ... in eodem ... consimilem
... In ... Bartolus ... universitatem ... ecclesie ...
... glo. ... universitas ... in ...
... lex ... tertio ... tertio possessore ... non
... creditori ... possidente ...
... in casu nostro ...
... glo. ... Bar. ... pretium
... Ergo cadit ... dicto ... tercio ...
... ad ... aq. ... idem ... Bar. ... iur. ...
... ibi ... ...

Partis ... considerationem ... pignorum ... S. Hyppoliti facta ... bonis ... sibi in speciem obligatis ... non obstantibus aliquibus in contrarium ... pro dictum ... Cui non ... dictus ... in speciem ... obligatum ... in specie ... cum domo ... speciale ... hipothecam ... non potuit ... ... Ex quibus ... Consultor ... consilio habet ... bona ... ex ... consilio ... in favorem S. Hyppoliti ... pro parte ... ...

[illegible] in causa appellationis [illegible] fuit [illegible] est [illegible]
[illegible] damiani [illegible] appellatione [illegible]
[illegible]
[illegible] ad videndum [illegible] ac [illegible] domini Jacobi [illegible]
[illegible]
[illegible] debuerit in procurando [illegible]
[illegible]
[illegible] locumtenentem [illegible]
[illegible]
[illegible] sententia [illegible] videretur [illegible]
[illegible] declaratio [illegible] perdere [illegible]
[illegible] declarationis [illegible]
[illegible] pignoris [illegible]
[illegible] ut not[illegible] in l. C. de [illegible]. Contrarium
[illegible] non perdere [illegible] sic sit retrahendus [illegible]
clarissima rationem hoc modo. Quod nullum est nullum debet sortiri [illegible] effectum
[illegible] declaratione [illegible] dampnum [illegible] iudicio
[illegible] monitione [illegible] fuerit nulla ut not[illegible]
[illegible] ergo dicta declaratio nullum debet sortiri [illegible] effectum
[illegible] damiani [illegible] ad [illegible] domini [illegible] sibi [illegible]
[illegible] in ipsa [illegible] in processu facta 1452 die martis
[illegible] ad respondendum [illegible] quo [illegible] damiani [illegible]
[illegible] manutentoris [illegible] quibus non [illegible] longius
[illegible] damiano [illegible] manutentoris [illegible] damiano [illegible]
[illegible] forma [illegible] pendente
facta fuit illa declaratio [illegible] damiani [illegible] non admonitus [illegible] non debuit
[illegible] ipsa declaratio [illegible] nulla ut [illegible] est. Non obstat quod [illegible]
[illegible] declarationis [illegible] locumtenentem. Nam dico quod illa [illegible] non [illegible]
[illegible] illa est [illegible] quae [illegible] nulla est confirmari non potest [illegible]
[illegible] illa [illegible] est [illegible] quae nulla [illegible] fi. de [illegible]
nec obstat quod procurator [illegible] expensas factas [illegible] non sequitur
ergo ratificavit [illegible] declarationem factam [illegible]
[illegible] quibus supra scriptis [illegible] allegatis [illegible]
[illegible] ad [illegible] dictum [illegible]
[illegible] damiani perdere debere. [illegible] Christi [illegible] dico [illegible] consulo [illegible]
magnifici ac [illegible] Antonii [illegible] ac [illegible]
[illegible] dignissimi locumtenentis [illegible] debere [illegible] procurando [illegible]
[illegible] doctoris domini Antonii
[illegible] in favorem [illegible] damiani de [illegible] male appellatum [illegible]
[illegible] in causa appellationis [illegible] causam [illegible]
[illegible] consulo [illegible] ab [illegible] absolvendum [illegible]

Et sic dico et consulo [illegible] de [illegible] legum doctor [illegible]
[illegible] propria manu scripsi [illegible] sigillo meo [illegible] sigillavi [illegible]

In noie Jesu xpi &c. Talis est tale S. A. & S. B. [illegible]

[illegible]

illa sita singulo quoque anno p antecitos [illegible]

[illegible] ... nec ceremoniam ... [illegible] ... luco [illegible]

[illegible] una [illegible]

[illegible] attento [illegible]

D. L. emptoris ... contingit aut [illegible]

[illegible] omnes o dua [illegible]

[illegible] ... comm posset noie D. L.

pignorare, contradicit pignorationi. Talis controversia ... [illegible]

[illegible]

dicti D. L. Tamen cum liquet eunde uti manutentore condemnatum [illegible]

[illegible] no appellauit, nec iam potest appellare [illegible]

[illegible]

pignorauerat ex infra dicendis. Et pro quia negari no pot q. dictus D. L. pignorando

S. R. uidetur Incurrisse [illegible]

dix tamq oblig [illegible]

quide penalis actio [illegible] ... ff. o uer. oblig. que [illegible]

[illegible]

[illegible] ... S. A. [illegible]

et heredum [illegible] Igitur uidetur male Incurrisse pignoratio contra S. R. no comprehensu

In In [illegible] ... actio penalis no leuauit nec afficit

[illegible] ... Bea. [illegible] sexto. V. nono Idem spec. In tit.

[illegible] ... uerimo leuauit ... Bal. ualere In l. fi. C. de hered. ac. [illegible] In

[illegible]

nō cōtradixerit. dat manifeste Jurelīgi q faciebat illū cē [illegible]

[illegible]

dubō satet sufficiēter pbatā possessionē. D. L. gl. cō eqūer q cōfirmādo possess[illegible]

[illegible]

[illegible] Instrūz. D. L. nā brevit vīdet q. lz fueri[illegible]

[illegible] inventariū ante celebrationē Instrūi gl cōtractus emphiteotici talis

[illegible] ō Inventarij sola nihil Juris tribuere potuit ss. R. sed ōia deliurari[illegible]

d[illegible] [illegible] fuit post Instrūz D. L. [illegible]

[illegible]montare dūcit [illegible]

motivis adductis [illegible]

Sn̄ia lata de Consilio sapientis

[illegible] et [illegible]

[illegible] ignoramus [illegible]

[illegible] Conradinum [illegible]

[illegible] Civitatis

[illegible]

[illegible]

[illegible] partes [illegible]

[illegible] in [illegible]

[illegible]

[illegible] annis [illegible]

[illegible]

[illegible] et

diligenter [illegible] annis

[illegible]

[illegible] et maxime duos [illegible]

[illegible] in causa [illegible]

[illegible] prima [illegible]

[illegible] mittitur uno

[illegible] dom[ini] [illegible]

[illegible] nullibi [illegible]

ipsos fures [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] contra licentia et [illegible]

[illegible] similaria responsione de [illegible]

videtur dicendum [illegible] pignorationem

debere [illegible] et p[ro] eo quia ipsi [illegible]

videamur [illegible] [illegible] quod et

[illegible] [illegible] [illegible] l. si pupilli [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] quia [illegible] nullius [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] que ipsi [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] responsionem et quia [illegible]

pignorationis [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] attento [illegible] cum [illegible]

illa [illegible] [illegible] [illegible] pignorati[onis]

quos [illegible] [illegible] [illegible] [illegible] [illegible] qua

In [illegible] pignorum [illegible]

[illegible] pignorum [illegible]

[illegible] [illegible]

[illegible] in [illegible]

[illegible] [illegible]

de quo in [illegible]

[illegible] [illegible]

[illegible] quo in [illegible]

[illegible] [illegible]

[illegible] non [illegible]

[illegible] pignorum

[illegible] non [illegible]

5 [illegible] pign[illegible]

[illegible] [illegible]

[illegible] pignoratio [illegible]

[illegible] [illegible]

[illegible] [illegible]

[illegible] dolorem omni [illegible]

[illegible] [illegible]

[illegible] [illegible]

[illegible] [illegible]

[illegible] [illegible]

[illegible]

[illegible]

[illegible] dim [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

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[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] tempore [illegible]

[illegible]

venditoris [illegible]

[illegible]

dicto [illegible]

[illegible] emptiorum [illegible]

[illegible]

[illegible] in [illegible]

[illegible]

si possessorem [illegible] et [illegible]

collegerim [illegible]

In [illegible] cum [illegible]

[illegible] possidenti [illegible]

modus [illegible]

[illegible] quo [illegible]

[illegible]issimus et acutissimus [illegible]

[illegible] Juliano

[illegible]

responso ad omnia [illegible]

[illegible]

[illegible] super ipso pacto [illegible]

[illegible] qui not. [illegible] doctores mox

[illegible] post Jaco. butri. [illegible]

[illegible] bal. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] manerent [illegible]

[illegible]

[illegible]

[illegible] possessione [illegible]

[illegible] ab [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

quia [illegible]

[illegible]

[illegible]

[illegible]

[illegible] quia [illegible]

[illegible]

[illegible] ista [illegible]

[illegible]

[illegible]

[illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] in [illegible]

[illegible] [illegible] [illegible] in [illegible]

[illegible] manu [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] ab [illegible]

[illegible] [illegible] [illegible] Ad Compana [illegible]

[illegible] [illegible] in [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] debere [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] debere

[illegible] [illegible] [illegible] est [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] est positum in palatio [illegible]

[illegible]

[illegible] commissionem [illegible] in causa [illegible]

[illegible] quod [illegible]

[illegible] commissionem [illegible] in causa [illegible]

[illegible] volumus [illegible] quia [illegible]

[illegible] visa [illegible]

[illegible] dirigit [illegible]

Sibi dum d. gradus romanie et domi
nus et possessor ipsius pecunie et bonis
et per consequens in minimo
pignorari potuisset sine si ponit
d. invalida
bit super ipsa pecunia venditionis pretii et
procedendo pacto non posset vasallorum animum
in statu esse seques in l. cum l. c.
de condi. ob causam tum et l.

Non obstante contraria in positione celebrata
tempore q. d. Sindici et administratores
quondam Antonii Culugnoni subordinati; instru-
menti mutui agere per tenorem cuius
causa ipsius instrumenti fuit solutum post
conclusionem in causa, quod d. non potuit
nec potuit de ipso fieri sed tamen maxime
per tempore conclusionis in causa non
erat confectum ipsum instrumentum ac ita
fuit a d. debitori solvendi ... facultas
respondendi sed quia non d. ad ... non d. ipsius
pretii ipsius pignorandi non fuerit ... in
separata non fuisset /

Christi Igitur Nomine repetito, qui Iudi-
cantium mentes dirigit in viam rectam

BIBLIOTECA CIVICA

et illud sensit usq; ad finem processus, sed publicatis
testibus, uidens q. sibi non seruiebant ad probationem
testamenti, mutauit libellum, et nouum intellectum ad
dictum uerbum, et si comentus fuit, q. tn non pot.
subsistere, sed contrarius intellectus est uerior
¶ et eo magis amplectandus, quia accertit ad dispo-
sitionem iuris coīs iuxta l. 2. c. de no. al. ¶ et maxe.
quia ex parte mulierū exclusarū tale statutum
est odiosum, ut p Bar. in l. cunctos populos in 6. q.
pnci.li c. de suma tri, et per Bal. post glo. in 2.
c. de Con. uis no. ¶ Hec obstat etsi diceret q.
quo ista soror semel fuit exclusa p descendentes a
successione bonor q. Mattheassij sui patris, q. perpetuo
remaneat exclusa, quia hereditas prima postq; est
adita per filios, desinit esse hereditas pris, sed dicit
filior ut in l. si plres ex filiis ff de uulg. et pupil.
et in l. i. s. ueteres ff de acq. pos. et tex. est opti-
mus iusti quibus ex ca. maio. ad lb. s. i. ¶ Alium
articulum circa testamentū q. formatū non tango
quia prior consultor iudicauit pro me, et similiter
circa libellum mutatum satis non insisto, quia si
principalis punctus defensatur frustra querimus de
libelli mutatione. Cetera supplcat, et pbitates
et lucubrationes dd. consultorū, quia tam theorica
q; obseruantia ueritatis sunt conscij etc.

Jac.s Florius iurisc.s Utin.